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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 2003–1]

Contribution Limitations and Prohibitions; Correction

AGENCY: Federal Election Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Election Commission published a correction to the final rules governing contribution limitations and prohibitions in the **Federal Register** on December 27, 2002 (67 FR 78959). The correction, in part, delayed the January 1, 2003 effective date for revised 11 CFR 110.9. Due to a typographical error, the date of the delayed effective date for this section was published as January 13, 2002; the correct delayed effective date for this section should have read January 13, 2003.

EFFECTIVE DATES: The revision of 11 CFR 110.9 published on November 19, 2002 (67 FR 69928) is effective January 13, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Acting Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Election Commission published in the **Federal Register** on December 27, 2002, Notice 2002–30 to delay the effective date of the revisions to 11 CFR 110.9 contained in the Contribution Limitations and Prohibitions; Final Rule. 67 FR 78959; *see also* 67 FR 69928 (November 19, 2002) (Contribution Limitations and Prohibitions; Final Rule). Due to a typographical error, Notice 2002–30 incorrectly stated that the delayed effective date for revised 11 CFR 110.9 would be January 13, 2002 rather than January 13, 2003. Consequently, this Notice corrects the delayed effective date for revised 11 CFR 110.9 to January 13, 2003.

Correction of Publication

Accordingly, the publication on December 27, 2002 (67 FR 78959) of the correction to the final regulations, which was the subject of Notice 2002–30, is revised as follows:

On page 78959 in the **DATES** section in the second and third line of the second column, change ''January 13, 2002'' to read ''January 13, 2003.''

Dated: January 8, 2003.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 03–666 Filed 1–13–03; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A; Docket No. R–1141]

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors is publishing final amendments to Regulation A to reflect its approval of the initial interest rates for extensions of primary and secondary credit. The amendments also correct a typographical error. These amendments supersede the text of one section of the final rule that the Board approved on October 31, 2002, and published in the **Federal Register** on November 7, 2002. The new primary and secondary credit rates do not indicate a change in the stance of monetary policy.

EFFECTIVE DATE: January 9, 2003.

FOR FURTHER INFORMATION CONTACT: Brian Madigan, Deputy Director (202/452–3828) or William Nelson, Senior Economist (202/452–3579), Division of Monetary Affairs; or Stephanie Martin, Assistant General Counsel (202/452–3198) or Adrianne Threatt, Counsel (202/452–3554), Legal Division; for users of Telecommunication Devices for the Deaf (TDD) only, contact 202/263–4869.

SUPPLEMENTARY INFORMATION: On October 31, 2002, the Board announced that it would eliminate the adjustment and extended credit programs and replace them with new primary and secondary credit programs, effective January 9, 2003 (67 FR 67777, November 7, 2002). Reserve Banks will offer primary credit for very short terms (usually overnight) as a backup source of liquidity to depository institutions that the Reserve Banks deem to be in generally sound financial condition. The Board expects that most depository institutions will qualify for primary credit. Under appropriate circumstances, Reserve Banks may extend secondary credit as a backup source of liquidity to depository institutions that do not qualify for primary credit.

The preamble to the Board's final rule indicated the Board's expectation that the initial interest rate for primary credit would be 100 basis points above the prevailing target federal funds rate of the Federal Open Market Committee (FOMC) and that the initial secondary credit rate would be 50 basis points above the primary credit rate. At the time it published its final rule, the Board did not know what the target federal funds rate would be on January 9, 2003, and thus could not determine the initial primary and secondary credit rates. Section 201.51(a)–(b) of the October 2002 final rule therefore simply described the above-market rates for primary and secondary credit but did not list the actual rates to be in effect on January 9, 2003.

On January 6, 2003, the Federal Reserve Board approved requests by each of the 12 Federal Reserve Banks to establish an initial interest rate for primary credit of 2.25 percent, which is 100 basis points above the current target federal funds rate. The Board also approved requests by the 12 Federal Reserve Banks to establish an initial secondary credit rate of 2.75 percent. These new primary and secondary credit rates will be listed in tables contained at § 201.51(a)–(b). The Board also has amended § 201.51(c) to correct a typographical error in the cross-reference to § 201.4. These amendments supersede the text of § 201.51(a)–(c) that appeared in the Board's October 2002 final rule.

The Board reiterates that the new primary and secondary credit rates simply implement the new, above-market lending programs and do not affect the stance of monetary policy, as

indexed by the FOMC's current target of 1.25 percent for the federal funds rate. The Reserve Banks will continue to establish rates on primary, secondary, and seasonal credit at least every two weeks, subject to review and determination of the Board of Governors, through the same procedures that have been used in the past to set the rates on adjustment, extended, and seasonal credit.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the new primary and secondary credit rates will not have a significant adverse economic impact on a substantial number of small entities because the final rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The Board did not follow the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of these amendments because the Board for good cause determined that delaying implementation of the new primary and secondary credit rates in order to allow notice and public comment would be impracticable, unnecessary, and contrary to the public interest in fostering price stability and sustainable economic growth. For these same reasons, the Board also has not provided 30 days prior notice of the effective date of the rule under section 553(d).

12 CFR Chapter II

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 12 CFR chapter II to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 248(i)–(j), 343 *et seq.*, 347a, 347b, 347c, 348 *et seq.*, 357, 374, 374a, and 461.

2. Section 201.51 (a) through (c) is revised to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.

(a) *Primary credit.* The interest rates for primary credit provided to depository institutions under § 201.4(a) are:

Federal Reserve Bank	Rate	Effective
Boston	2.25	January 9, 2003.
New York	2.25	January 9, 2003.
Philadelphia	2.25	January 9, 2003.
Cleveland	2.25	January 9, 2003.
Richmond	2.25	January 9, 2003.
Atlanta	2.25	January 9, 2003.
Chicago	2.25	January 9, 2003.
St. Louis	2.25	January 9, 2003.
Minneapolis	2.25	January 9, 2003.
Kansas City	2.25	January 9, 2003.
Dallas	2.25	January 9, 2003.
San Francisco	2.25	January 9, 2003.

(b) *Secondary credit.* The interest rates for secondary credit provided to depository institutions under 201.4(b) are:

Federal Reserve Bank	Rate	Effective
Boston	2.75	January 9, 2003.
New York	2.75	January 9, 2003.
Philadelphia	2.75	January 9, 2003.
Cleveland	2.75	January 9, 2003.
Richmond	2.75	January 9, 2003.
Atlanta	2.75	January 9, 2003.
Chicago	2.75	January 9, 2003.
St. Louis	2.75	January 9, 2003.
Minneapolis	2.75	January 9, 2003.
Kansas City	2.75	January 9, 2003.
Dallas	2.75	January 9, 2003.
San Francisco	2.75	January 9, 2003.

(c) *Seasonal credit.* The rate for seasonal credit extended to depository institutions under § 201.4(c) is a flexible rate that takes into account rates on market sources of funds.

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 8, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–621 Filed 1–13–03; 8:45 am]

BILLING CODE 6210–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30349; Amdt. No. 3040]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable

airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective January 14, 2003. The compliance rate for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 14, 2003.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independent Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

4. The Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97:

Air Traffic Control, Airports, incorporation by reference, and Navigation (Air).

Issued in Washington, DC on January 3, 2003.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g) 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

2. Part 97 is amended to read as follows:

§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.95 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC Number	Subject
12/11/02	PA	Bedford	BEDFORD COUNTY	2/2732	GPS RWY 32, Orig-B
12/16/02	MD	Annapolis	LEE	2/2859	RNAV (GPS) RWY 30, Orig.
12/18/02	VA	Roanoke	ROANOKE REGIONAL/ WOODR UM FIELD.	2/2903	RNAV (GPS) RWY 33, Orig-A.
12/20/02	OR	Portland	PORTLAND INTL	2/2955	NDB RWY 28R, Amdt 11.
12/20/02	OR	Portland	PORTLAND INTL	2/2956	ILS RWY 10L, Amdt 1C.
12/20/02	OR	Portland	PORTLAND INTL	2/2957	ILS RWY 28L Orig-B.
12/20/02	OR	Portland	PORTLAND INTL	2/2958	ILS RWY 28R, Amdt 12B.
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12/30/02	NM	Las Cruces	LAS CRUCES INTL	2/3098	ILS RWY 30, Amdt 1.

[FR Doc. 03–651 Filed 1–13–03; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 744 and 774

[Docket No. 021216312–2312–01]

RIN 0694–AC66

Revision of Export Controls for General Purpose Microprocessors

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final Rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to implement revisions to national security controls for microprocessors that were agreed upon in the February 2002 meeting of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). This final rule removes license requirements for exports and reexports of general purpose microprocessors to most destinations to conform with changes in the List of Dual-Use Goods and Technologies maintained and agreed to by governments participating in the Wassenaar Arrangement. This rule retains license requirements for exports and reexports to designated terrorist-supporting countries. In addition, this rule establishes a new license requirement for the export or reexport of general purpose microprocessors if, at the time of the export or reexport, the exporter or reexporter knows, has reason to know, or is informed by BIS that the item will be or is intended to be used for a ''military end-use'' in a country that is of concern for national security reasons or by a ''military end-user'' in such a country. This license requirement does not apply to items for the official use by personnel and agencies of the U.S. Government or agencies of a cooperating government in a country of concern for national security reasons. The license review standard for applications to export or reexport general purpose microprocessors subject to this license requirement is a presumption of denial. No license exceptions are available for this license requirement.

EFFECTIVE DATE: This rule is effective: January 14, 2003.

FOR FURTHER INFORMATION CONTACT: Sharron Cook, Office of Exporter Services, Bureau of Exoprt Administration, Telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

This rule implements changes in the List of Dual-Use Goods and Technologies maintained and agreed to by governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement) in February 2002. General purpose microprocessors, which are produced in very large volumes and sold through a variety of channels, are used in numerous civilian applications worldwide, such as personal computers, cellular telephones, personal digital assistants, and wireless base stations. General purpose microprocessors may also be used in a wide variety of military applications and weapons systems. The continuous, rapid increase in microprocessor capabilities has necessitated frequent adjustment to export control parameters to avoid expending limited export control resources on mass market items.

While some general purpose microprocessors will remain under the classification of Export Control Classification Number (ECCN) 3A001 on the Commerce Control List (CCL) (Supplement No. 1 to part 774 of the EAR), this rule moves most general purpose microprocessors to ECCN 3A991. Specifically, 3A001.a.3.a is removed and reserved and 3A991.a.1 is created to control the export and reexport of ''microprocessor microcircuits'', ''microcomputer microcircuits'', and microcontroller microcircuits having a ''composite theoretical performance'' (''CTP'') of 6,500 million theoretical operations per second (MTOPS) or more and an arithmetic logic unit with an access width of 32 bit or more to countries in ''AT column 1'' of the Commerce Country Chart (see Supplement No. 1 of part 738 of the EAR) for anti-terrorism (AT) reasons. Currently, North Korea, Sudan and Syria are listed in ''AT column 1.'' However, the Commerce Country Chart directs you to part 746 of the EAR to determine license requirements for other state sponsors of terrorism, *i.e.*, Cuba, Iran, Iraq, and Libya.

This rule also creates a new § 744.17, ''Restrictions on certain exports and reexports of general purpose microprocessors for 'military end-uses' and to 'military end-users.' In addition to the license requirements for AT reasons specified in ECCN 3A991.a.1 on the CCL and §§ 742.9, 742.10 and 742.18 of the EAR, no one may export or reexport an item classified under ECCN 3A991.a.1 without a license if, at the time of the export or reexport, the exporter or reexporter knows, has reason to know, or is informed by BIS, that the item will be or is intended to be used for a 'military end-use,' as defined in paragraph (d) of this section, in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR); or by a 'military end-user,' as defined in paragraph (e) of this section, in Country Group D:1. The definitions of the term ''know'' and ''knowledge'' set forth in section 772.1 of the EAR apply to this license requirement. This rule also defines, for purposes of the newly created § 774.17, the terms 'military end-use' and 'military end-user.' In addition, this rule adds a new Supplement No. 1 to part 744 to give examples of military items in which this type of microprocessor could be used. This license requirement does not apply to items for the official use by personnel and agencies of the U.S. Government or agencies of a cooperating government in a Country Group D:1 country. See § 740.11(b)(3) of the EAR for definitions of ''agency of the U.S. Government'' and ''agency of a cooperating government.'' The license review standard for applications to export or reexport general purpose microprocessors under section 744.17 is a presumption of denial. No license exceptions are available for this license requirement.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001 (66 FR 44025, 3 CFR, 2001 Comp., p. 783)), as extended by the Notice of August 14, 2002 (67 FR 53721, August 16, 2002), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 45 minutes for a manual submission and 40 minutes for an electronic submission.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

List of Subjects

15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Foreign trade.

Accordingly, parts 744 and 774 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

PART 744—[AMENDED]

1. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Publ. L. 106–387; Sec. 221, Publ. L. 107–56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of November 9, 2001, 66 FR 56965, 3 CFR, 2001 Comp., p. 917; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

2. Part 744 is amended by adding a new § 744.17, and adding a new Supplement No. 1, to read as follows:

§ 744.17 Restrictions on certain exports and reexports of general purpose microprocessors for ''military end-uses'' and to ''military end-users.''

(a) *General prohibition.* In addition to the license requirements for anti-terrorism reasons set forth in part 742 of the EAR, you may not export or reexport commodities described in ECCN 3A991.a.1 on the CCL (''microprocessor microcircuits'', ''microcomputer microcircuits'', and microcontroller microcircuits having a ''composite theoretical performance'' (''CTP'') of 6,500 million theoretical operations per second (MTOPS) or more and an arithmetic logic unit with an access width of 32 bit or more), without a license if, at the time of the export or reexport, you know, have reason to know, or are informed by BIS that the item will be or is intended to be used for a ''military end-use,'' as defined in paragraph (d) of this section, in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR); or by a ''military end-user,'' as defined in paragraph (e) of this section, in Country Group D:1. This license requirement does not apply to exports or reexports of items for the official use by personnel and agencies of the U.S. Government or agencies of a cooperating government. See § 740.11(b)(3) of the EAR for definitions of ''agency of the U.S. Government'' and ''agency of a cooperating government''.

(b) *Additional prohibition on exporters or reexporters informed by BIS.* BIS may inform an exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for export or reexport of items described in ECCN 3A991.a.1 to specified end-users, because BIS has determined that there is an unacceptable risk of diversion to the uses or users described in paragraph (a) of this section. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration.

The absence of any such notification does not excuse the exporter or reexporter from compliance with the license requirements of paragraph (a) of this section.

(c) *License review standards.* There is a presumption of denial for applications to export or reexport items subject to this section.

(d) *Military end-use.* In this section, the phrase ''military end-use'' means incorporation into: a military item described on the U.S. Munitions List (USML) (22 CFR part 121, International Traffic in Arms Regulations) or the International Munitions List (IML) (as set out on the Wassenaar Arrangement website at *http:\\www.wassenaar.org*); commodities listed under ECCN's ending in ''A018'' on the Commerce Control List (CCL) in Supplement No. 1 to part 774 of the EAR; or any item that is designed for the ''use'', ''development'', ''production'', or deployment of military items described on the USML, the IML, or commodities listed under ECCN's ending in ''A018'' on the CCL. Supplement No. 1 of this part lists examples of 'military end-use.'

(e) *Military end-user.* In this section, the term ''military end-user'' means the national armed services (army, navy, marine, air force, or coast guard), as well as the national guard and national police, government intelligence or reconnaissance organizations, or any person or entity whose actions or functions are intended to support ''military end-uses'' as defined in paragraph (d) of this section.

(f) *Exceptions.* No License Exceptions apply to the prohibitions described in paragraphs (a) and (b) of this section.

Supplement No. 1 to Part 744—Military End-Use Examples for § 744.17

(a) *Examples of military end-uses (as described in § 744.17 (d) of this part) of general-purpose microprocessors classified as ECCN 3A991.a.1 includes employing such microprocessors in the ''use'', ''development'', ''production'', or deployment of:*

(1) Cruise missiles;

(2) Electronic suites of military aircraft and helicopters;

(3) Radar for searching, targeting, or tracking systems;

(4) Command/control/communications or navigation systems;

(5) Unmanned aerial vehicles capable of performing military reconnaissance, surveillance, or combat support;

(6) Rocket or missile systems;

(7) Electronic or information warfare systems; or

(8) Intelligence, reconnaissance, or surveillance systems suitable for supporting military operations.

(b) [Reserved]

PART 774—[AMENDED]

3. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; notice of August 14, 2002, 67 FR 53721, August 16, 2002.

4. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3A001 is amended by revising the License Exception section, and the Items paragraph of the List of Items Controlled section, to read as follows:

3A001 Electronic Components, as Follows (*see* List of Items Controlled)

* * * * *

License Exceptions

LVS: N/A for MT or NP
Yes for:
$1500: 3A001.c
$3000: 3A001.b.1, b.2, b.3, .d, .e and .f
$5000: 3A001.a, and .b.4 to b.7

GBS: Yes for 3A001.a.1.b, a.2 to a.12, b.2, and b.8 (except for TWTAs exceeding 18 GHz).

CIV: Yes for 3A001.a.3.b, a.3.c, a.4, a.7, and a.11.

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

a. General purpose integrated circuits, as follows:

Note 1: The control status of wafers (finished or unfinished), in which the function has been determined, is to be evaluated against the parameters of 3A001.a.

Note 2: Integrated circuits include the following types: ''Monolithic integrated circuits''; ''Hybrid integrated circuits''; ''Multichip integrated circuits''; ''Film type integrated circuits'', including silicon-on-sapphire integrated circuits; ''Optical integrated circuits''.

a.1. Integrated circuits, designed or rated as radiation hardened to withstand any of the following:

a.1.a. A total dose of 5×10^3 Gy (Si), or higher; or

a.1.b. A dose rate upset of 5×10^6 Gy (Si)/s, or higher;

a.2. ''Microprocessor microcircuits'', ''microcomputer microcircuits'', microcontroller microcircuits, storage integrated circuits manufactured from a compound semiconductor, analog-to-digital converters, digital-to-analog converters, electro-optical or ''optical integrated circuits'' designed for ''signal processing'', field programmable logic devices, neural network integrated circuits, custom integrated circuits for which either the function is unknown or the control status of the equipment in which the integrated circuit will be used in unknown, Fast Fourier Transform (FFT) processors, electrical erasable programmable read-only memories (EEPROMs), flash memories or static random-access memories (SRAMs), having any of the following:

a.2.a. Rated for operation at an ambient temperature above 398 K (125°C);

a.2.b. Rated for operation at an ambient temperature below 218 K (−55°C); or

a.2.c. Rated for operation over the entire ambient temperature range from 218 K (−55°C) to 398 K (125° C);

Note: 3A001.a.2 does not apply to integrated circuits for civil automobile or railway train applications.

a.3. ''Microprocessor microcircuits'', ''micro-computer microcircuits'' and microcontroller microcircuits, having any of the following characteristics:

Note: 3A001.a.3 includes digital signal processors, digital array processors and digital coprocessors.

a.3.a. [Reserved]

a.3.b. Manufactured from a compound semiconductor and operating at a clock frequency exceeding 40 MHz; or

a.3.c. More than one data or instruction bus or serial communication port that provides a direct external interconnection between parallel ''microprocessor microcircuits'' with a transfer rate exceeding 150 Mbyte/s;

a.4. Storage integrated circuits manufactured from a compound semiconductor;

a.5. Analog-to-digital and digital-to-analog converter integrated circuits, as follows:

a.5.a. Analog-to-digital converters having any of the following:

a.5.a.1. A resolution of 8 bit or more, but less than 12 bit, with a total conversion time of less than 5 ns;

a.5.a.2. A resolution of 12 bit with a total conversion time of less than 200 ns; or

a.5.a.3. A resolution of more than 12 bit with a total conversion time of less than 2 μs;

a.5.b. Digital-to-analog converters with a resolution of 12 bit or more, and a ''settling time'' of less than 10 ns;

Technical Note: 1. A resolution of n bit corresponds to a quantization of 2″ levels.

2. Total conversion time is the inverse of the sample rate.

a.6. Electro-optical and ''optical integrated circuits'' designed for ''signal processing'' having all of the following:

a.6.a. One or more than one internal ''laser'' diode;

a.6.b. One or more than one internal light detecting element; and

a.6.c. Optical waveguides;

a.7. Field programmable logic devices having any of the following:

a.7.a. An equivalent usable gate count of more than 30,000 (2 input gates);

a.7.b. A typical ''basic gate propagation delay time'' of less than 0.1 ns; or

a.7.c. A toggle frequency exceeding 133 MHz;

Note: 3A001.a.7 includes: Simple Programmable Logic Devices (SPLDs), Complex Programmable Logic Devices (CPLDs), Field Programmable Gate Arrays (FPGAs), Field Programmable Logic Arrays (FPLAs), and Field Programmable Interconnects (FPICs).

N.B.: Field programmable logic devices are also known as field programmable gate or field programmable logic arrays.

a.8. [Reserved]

a.9. Neural network integrated circuits;

a.10. Custom integrated circuits for which the function is unknown, or the control status of the equipment in which the integrated circuits will be used is unknown to the manufacturer, having any of the following:

a.10.a. More than 1,000 terminals;

a.10.b. A typical ''basic gate propagation delay time'' of less than 0.1 ns; or

a.10.c. An operating frequency exceeding 3 GHz;

a.11. Digital integrated circuits, other than those described in 3A001.a.3 to 3A001.a.10 and 3A001.a.12, based upon any compound semiconductor and having any of the following:

a.11.a. An equivalent gate count of more than 3,000 (2 input gates); or

a.11.b. A toggle frequency exceeding 1.2 GHz;

a.12. Fast Fourier Transform (FFT) processors having a rated execution time for an N-point complex FFT of less than $(N \log_2 N)/20{,}480$ ms, where N is the number of points;

Technical Note: When N is equal to 1,024 points, the formula in 3A001.a.12 gives an execution time of 500 μs.

b. Microwave or millimeter wave components, as follows:

b.1. Electronic vacuum tubes and cathodes, as follows:

Note 1: 3A001.b.1 does not control tubes designed or rated for operation in any frequency band which meets all of the following characteristics:

(a.) Does not exceed 31 GHz; and

(b.) Is ''allocated by the ITU'' for radio-communications services, but not for radio-determination.

Note 2: 3A001.b.1 does not control non-'space-qualified'' tubes which meet all the following characteristics:

(a.) An average output power equal to or less than 50 W; *and*

(b.) Designed or rated for operation in any frequency band which meets all of the following characteristics:

(1.) Exceeds 31 GHz but does not exceed 43.5 GHz; *and*

(2.) Is ''allocated by the ITU'' for radio-communications services, but not for radio-determination.

b.1.a. Traveling wave tubes, pulsed or continuous wave, as follows:

b.1.a.1. Operating at frequencies exceeding 31 GHz;

b.1.a.2. Having a cathode heater element with a turn on time to rated RF power of less than 3 seconds;

b.1.a.3. Coupled cavity tubes, or derivatives thereof, with a ''fractional bandwidth'' of more than 7% or a peak power exceeding 2.5 kW;

b.1.a.4. Helix tubes, or derivatives thereof, with any of the following characteristics:

b.1.a.4.a. An ''instantaneous bandwidth'' of more than one octave, and average power (expressed in kW) times frequency (expressed in GHz) of more than 0.5;

b.1.a.4.b. An ''instantaneous bandwidth'' of one octave or less, and average power (expressed in kW) times frequency (expressed in GHz) of more than 1; or

b.1.a.4.c. Being ''space qualified'';

b.1.b. Crossed-field amplifier tubes with a gain of more than 17 dB;

b.1.c. Impregnated cathodes designed for electronic tubes producing a continuous emission current density at rated operating conditions exceeding 5 A/cm^2;

b.2. Microwave integrated circuits or modules having all of the following:

b.2.a. Containing ''monolithic integrated circuits'' having one or more active circuit elements; and

b.2.b. Operating at frequencies above 3 GHz;

Note 1: 3A001.b.2 does not control circuits or modules for equipment designed or rated to operate in any frequency band which meets all of the following characteristics:

(a.) Does not exceed 31 GHz; and

(b.) Is ''allocated by the ITU'' for radio-communications services, but not for radio-determination.

Note 2: 3A001.b.2 does not control broadcast satellite equipment designed or rated to operate in the frequency range of 40.5 to 42.5 GHz.

b.3. Microwave transistors rated for operation at frequencies exceeding 31 GHz;

b.4. Microwave solid state amplifiers, having any of the following:

b.4.a. Operating frequencies exceeding 10.5 GHz and an ''instantaneous bandwidth'' of more than half an octave; or

b.4.b. Operating frequencies exceeding 31 GHz;

b.5. Electronically or magnetically tunable band-pass or band-stop filters having more than 5 tunable resonators capable of tuning across a 1.5:1 frequency band (f_{max}/f_{min}) in less than 10 μs having any of the following:

b.5.a. A band-pass bandwidth of more than 0.5% of center frequency; or

b.5.b. A band-stop bandwidth of less than 0.5% of center frequency;

b.6. Microwave ''assemblies'' capable of operating at frequencies exceeding 31 GHz;

b.7. Mixers and converters designed to extend the frequency range of equipment described in 3A002.c, 3A002.e or 3A002.f beyond the limits stated therein;

b.8. Microwave power amplifiers containing tubes controlled by 3A001.b and having all of the following:

b.8.a. Operating frequencies above 3 GHz;

b.8.b. An average output power density exceeding 80 W/kg; and

b.8.c. A volume of less than 400cm^3

Note: 3A001.b.8 does not control equipment designed or rated for operation in any frequency band which is ''allocated by the ITU'' for radio-communications services, but not for radio-determination.

c. Acoustic wave devices, as follows, and specially designed components therefor:

c.1. Surface acoustic wave and surface skimming (shallow bulk) acoustic wave devices (*i.e.*, ''signal processing'' devices employing elastic waves in materials), having any of the following:

c.1.a. A carrier frequency exceeding 2.5 GHz;

c.1.b. A carrier frequency exceeding 1 GHz, but not exceeding 2.5 GHz, and having any of the following:

c.1.b.1. A frequency side-lobe rejection exceeding 55 dB;

c.1.b.2. A product of the maximum delay time and the bandwidth (time in μs and bandwidth in MHz) of more than 100;

c.1.b.3. A bandwidth greater than 250 MHz; or

c.1.b.4. A dispersive delay of more than 10 μs; or

c.1.c. A carrier frequency of 1 GHz or less, having any of the following:

c.1.c.1. A product of the maximum delay time and the bandwidth (time in μs and bandwidth in MHz) of more than 100;

c.1.c.2. A dispersive delay of more than 10 μs or

c.1.c.3. A frequency side-lobe rejection exceeding 55 dB and a bandwidth greater than 50 MHz;

c.2. Bulk (volume) acoustic wave devices (*i.e.*, ''signal processing'' devices employing elastic waves) that permit the direct processing of signals at frequencies exceeding 1 GHz;

c.3. Acoustic-optic ''signal processing'' devices employing interaction between acoustic waves (bulk wave or surface wave) and light waves that permit the direct processing of signals or images, including spectral analysis, correlation or convolution;

d. Electronic devices and circuits containing components, manufactured from ''superconductive'' materials specially designed for operation at temperatures below the ''critical temperature'' of at least one of the ''superconductive'' constituents, with any of the following:

d.1. Current switching for digital circuits using ''superconductive'' gates with a product of delay time per gate (in seconds) and power dissipation per gate (in watts) of less than 10^{-14} J; or

d.2. Frequency selection at all frequencies using resonant circuits with Q-values exceeding 10,000;

e. High energy devices, as follows:

e.1. Batteries and photovoltaic arrays, as follows:

Note: 3A001.e.1 does not control batteries with volumes equal to or less than 27 cm^3 (*e.g.*, standard C-cells or R14 batteries).

e.1.a. Primary cells and batteries having an energy density exceeding 480 Wh/kg and rated for operation in the temperature range from below 243 K (−30°C) to above 343 K (70°C);

e.1.b. Rechargeable cells and batteries having an energy density exceeding 150 Wh/kg after 75 charge/discharge cycles at a discharge current equal to C/5 hours © being the nominal capacity in ampere hours) when operating in the temperature range from below 253 K (−20°C) to above 333 K (60°C);

Technical Note: Energy density is obtained by multiplying the average power in watts (average voltage in volts times average

current in amperes) by the duration of the discharge in hours to 75% of the open circuit voltage divided by the total mass of the cell (or battery) in kg.

e.1.c. ''Space qualified'' and radiation hardened photovoltaic arrays with a specific power exceeding 160 W/m^2 at an operating temperature of 301 K (28°C) under a tungsten illumination of 1 kW/m^2 at 2,800 K (2,527°C);

e.2. High energy storage capacitors, as follows:

e.2.a. Capacitors with a repetition rate of less than 10 Hz (single shot capacitors) having all of the following:

e.2.a.1. A voltage rating equal to or more than 5 kV;

e.2.a.2. An energy density equal to or more than 250 J/kg; and

e.2.a.3. A total energy equal to or more than 25 kJ;

e.2.b. Capacitors with a repetition rate of 10 Hz or more (repetition rated capacitors) having all of the following:

e.2.b.1. A voltage rating equal to or more than 5 kV;

e.2.b.2. An energy density equal to or more than 50 J/kg;

e.2.b.3. A total energy equal to or more than 100 J; and

e.2.b.4. A charge/discharge cycle life equal to or more than 10,000;

e.3. ''Superconductive'' electromagnets and solenoids specially designed to be fully charged or discharged in less than one second, having all of the following:

Note: 3A001.e.3 does not control ''superconductive'' electromagnets or solenoids specially designed for Magnetic Resonance Imaging (MRI) medical equipment.

e.3.a. Energy delivered during the discharge exceeding 10 kJ in the first second;

e.3.b. Inner diameter of the current carrying windings of more than 250 mm; and

e.3.c. Rated for a magnetic induction of more than 8 T or ''overall current density'' in the winding of more than 300 A/mm^2;

f. Rotary input type shaft absolute position encoders having any of the following:

f.1. A resolution of better than 1 part in 265,000 (18 bit resolution) of full scale; or f.2. An accuracy better than ± 2.5 seconds of arc.

5. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3A991 is amended by revising the License Requirement section, and the Items paragraph of the List of Items Controlled section, to read as follows:

3A991 Electronic Devices and Components Not Controlled by 3A001

License Requirements

Reason for Control: AT

Control(s)	Country chart
AT applies to entire entry	AT Column 1

License Requirements Notes

1. Microprocessors with a CTP below 550 MTOPS listed in paragraphs (a)(2) or (a)(3) of this entry may be shipped NLR (No License Required) when destined to North Korea, provided restrictions set forth in other sections of the EAR (e.g., end-use restrictions), do not apply.

2. See 744.17 of the EAR for additional license requirements for commodities classified as 3A991.a.1.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: * * *

Related Definitions: * * *

Items:

a. ''Microprocessor microcircuits'', ''microcomputer microcircuits'', and microcontroller microcircuits having any of the following:

a.1. A ''composite theoretical performance'' (''CTP'') of 6,500 million theoretical operations per second (MTOPS) or more and an arithmetic logic unit with an access width of 32 bit or more;

a.2. A clock frequency rate exceeding 25 MHz; or

a.3. More than one data or instruction bus or serial communication port that provides a direct external interconnection between parallel ''microprocessor microcircuits'' with a transfer rate of 2.5 Mbyte/s.

b. Storage integrated circuits, as follows:

b.1. Electrical erasable programmable read-only memories (EEPROMs) with a storage capacity;

b.1.a. Exceeding 16 Mbits per package for flash memory types; or

b.1.b. Exceeding either of the following limits for all other EEPROM types:

b.1.b.1. Exceeding 1 Mbit per package; or

b.1.b.2. Exceeding 256 kbit per package and a maximum access time of less than 80 ns;

b.2. Static random access memories (SRAMs) with a storage capacity:

b.2.a. Exceeding 1 Mbit per package; or

b.2.b. Exceeding 256 kbit per package and a maximum access time of less than 25 ns;

c. Analog-to-digital converters having a resolution of 8 bit or more, but less than 12 bit, with a total conversion time of less than 10 ns;

d. Field programmable logic devices having either of the following:

d.1. An equivalent gate count of more than 5000 (2 input gates); or

d.2. A toggle frequency exceeding 100 MHz;

e. Fast Fourier Transform (FFT) processors having a rated execution time for a 1,024 point complex FFT of less than 1 ms.

f. Custom integrated circuits for which either the function is unknown, or the control status of the equipment in which the integrated circuits will be used is unknown to the manufacturer, having any of the following:

f.1. More than 144 terminals; or

f.2. A typical ''basic propagation delay time'' of less than 0.4 ns.

g. Traveling wave tubes, pulsed or continuous wave, as follows:

g.1. Coupled cavity tubes, or derivatives thereof;

g.2. Helix tubes, or derivatives thereof, with any of the following:

g.2.a. An ''instantaneous bandwidth'' of half an octave or more; and

g.2.b. The product of the rated average output power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.2;

g.2.c. An ''instantaneous bandwidth'' of less than half an octave; and

g.2.d. The product of the rated average output power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.4;

h. Flexible waveguides designed for use at frequencies exceeding 40 GHz;

i. Surface acoustic wave and surface skimming (shallow bulk) acoustic wave devices (*i.e.*, ''signal processing'' devices employing elastic waves in materials), having either of the following:

i.1. A carrier frequency exceeding 1 GHz; or

i.2. A carrier frequency of 1 GHz or less; and

i.2.a. A frequency side-lobe rejection exceeding 55 Db;

i.2.b. A product of the maximum delay time and bandwidth (time in microseconds and bandwidth in MHz) of more than 100; or

i.2.c. A dispersive delay of more than 10 microseconds.

j. Batteries, as follows:

Note: 3A991 .j does not control batteries with volumes equal to or less than 26 cm^3 (e.g., standard C-cells or UM–2 batteries).

j.1. Primary cells and batteries having an energy density exceeding 350 Wh/kg and rated for operation in the temperature range from below 243 K (−30°C) to above 343 K (70°C);

j.2. Rechargeable cells and batteries having an energy density exceeding 150 Wh/kg after 75 charge/discharge cycles at a discharge current equal to C/5 hours '' being the nominal capacity in ampere hours) when operating in the temperature range from below 253 K (−20°C) to above 333 K (60°C);

Technical Note: Energy density is obtained by multiplying the average power in watts (average voltage in volts times average current in amperes) by the duration of the discharge in hours to 75 percent of the open circuit voltage divided by the total mass of the cell (or battery) in kg.

k. ''Superconductive'' electromagnets or solenoids specially designed to be fully charged or discharged in less than one minute, having all of the following:

Note: 3A991.k does not control ''superconductive'' electromagnets or solenoids designed for Magnetic Resonance Imaging (MRI) medical equipment.

k.1. Maximum energy delivered during the discharge divided by the duration of the discharge of more than 500 kJ per minute;

k.2. Inner diameter of the current carrying windings of more than 250 mm; and

k.3. Rated for a magnetic induction of more than 8T or ''overall current density'' in the winding of more than 300 A/mm2.

l. Circuits or systems for electromagnetic energy storage, containing components manufactured from ''superconductive'' materials specially designed for operation at temperatures below the ''critical temperature'' of at least one of their ''superconductive'' constituents, having all of the following:

l.1. Resonant operating frequencies exceeding 1 MHz;

l.2. A stored energy density of 1 MJ/M^3 or more; and

l.3. A discharge time of less than 1 ms;

m. Hydrogen/hydrogen-isotope thyratrons of ceramic-metal construction and rate for a peak current of 500 A or more;

n. Digital integrated circuits based on any compound semiconductor having an equivalent gate count of more than 300 (2 input gates).

* * * * *

Dated: December 30, 2002.

James J. Jochum,

Assistant Secretary for Export Administration.

[FR Doc. 03–714 Filed 1–13–03; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 02–62]

RIN 1515–AD11

Presentation of Vessel Cargo Declaration to Customs Before Cargo Is Laden Aboard Vessel at Foreign Port for Transport to the United States; Technical Correction

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule; technical correction.

SUMMARY: This document contains a technical correction to the final regulations (T.D. 02–62), which were published Thursday, October 31, 2002. The regulations required the advance and accurate presentation of certain vessel cargo declaration information to Customs prior to lading the cargo aboard the vessel at the foreign port and encouraged the presentation of this information electronically.

EFFECTIVE DATE: December 2, 2002.

FOR FURTHER INFORMATION CONTACT: Kimberly Nott, Office of Field Operations, (202–927–0042).

SUPPLEMENTARY INFORMATION:

Background

On October 31, 2002, Customs published a final rule document in the **Federal Register** (67 FR 66318) as T.D. 02–62. The final rule concerned the requirement to provide advance and accurate presentation to Customs of certain vessel cargo declaration information prior to lading the cargo aboard the vessel at the foreign port and encouraged the presentation of this information electronically.

This correction concerns when a transmission of the required cargo declaration information must be made by an eligible non-vessel operating common carrier (NVOCC). Specifically, in T.D. 02–62, § 4.7(b)(2) of the Customs Regulations (19 CFR 4.7(b)(2)) correctly provided that Customs must receive from the vessel carrier the vessel's Cargo Declaration, Customs Form 1302, or a Customs-approved electronic equivalent, 24 hours before such cargo was laden aboard the vessel at the foreign port. By contrast, § 4.7(b)(3)(i) inadvertently stated in effect that if an eligible NVOCC elected to file such cargo declaration information with Customs, the NVOCC would have to electronically transmit this information to Customs 24 hours before the related cargo was laden aboard the vessel at the foreign port.

However, under T.D. 02–62, both vessel carriers and NVOCCs were properly intended to be subject to the same 24-hour advance presentation requirement. As such, it was intended that under § 4.7(b)(3)(i) Customs likewise receive from a participating NVOCC the necessary cargo declaration information 24 hours before the related cargo was laden aboard the vessel at the foreign port. This document corrects that unintended inconsistency.

Correction of Publication

Accordingly, the publication on October 31, 2002 of the final regulations (T.D. 02–62), which were the subject of FR Doc. 02–27661, is corrected as follows:

On page 66331, in the second column, in § 4.7, in the first sentence of paragraph (b)(3)(i), on line 14, add between the words ''Vessel Automated Manifest System (AMS)'' and ''24 or more hours'' the words ''that must be received'.

Dated: January 9, 2003.

Michael T. Schmitz,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 03–741 Filed 1–13–03; 8:45 am]

BILLING CODE 4820–02–P

Proposed Rules

Federal Register
Vol. 68, No. 9
Tuesday, January 14, 2003

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–53–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This proposed AD would require you to inspect the front and rear surfaces of the pressure dome for damage and cracks, and, if necessary, accomplish repairs. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this proposed AD are intended to detect and correct damage and cracks to the pressure dome, which could lead to rapid decompression.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before February 24, 2003.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002-CE–53-AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2002–CE–53–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on this Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the proposed rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this proposed AD I should pay attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the proposed rule. You may view all comments we receive before and after the closing date of the proposed rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2002–CE–53–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on certain Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA reports that drill and/or rivet tool damage could have occurred in areas around the edges of the rear pressure dome during assembly of the Models PC–12 and PC–12/45 airplanes.

Pilatus has received 19 reports of damaged pressure domes. The reported damage included nicks and scratches. This type of damage could also occur on the forward surface of the pressure dome.

What Are the Consequences if the Condition Is Not Corrected?

The damage to the pressure dome could result in cracks in the pressure dome and lead to rapid decompression.

Is There Service Information That Applies To This Subject?

Pilatus has issued PC–12 Service Bulletin Number 53–003, Revision No. 1, dated July 26, 2002.

What Are the Provisions of This Service Information?

The service bulletin includes procedures for:

—inspecting the pressure dome for damage/cracks; and

—repairing the pressure dome.

What Action Did the FOCA Take?

The FOCA classified this service bulletin as mandatory and issued Swiss AD Number HB 2002–608, dated November 1, 2002, in order to ensure the continued airworthiness of these airplanes in Switzerland.

Was This in Accordance With the Bilateral Airworthiness Agreement?

These airplane models are manufactured in Switzerland and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the FOCA has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of This Proposed AD

What Has FAA Decided?

The FAA has examined the findings of the FOCA; reviewed all available information, including the service information referenced above; and determined that:

—the unsafe condition referenced in this document exists or could develop on other Pilatus Models PC–12 and PC–12/45 airplanes of the same type design that are on the U.S. registry;

—the actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Would This Proposed AD Require?

This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

Cost Impact

How Many Airplanes Would This Proposed AD Impact?

We estimate that this proposed AD affects 280 airplanes in the U.S. registry.

What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
8 workhours × $60 per hour = $480	No parts required	$480	$480 × 280 = $134,400

We estimate the following costs to accomplish any necessary repairs that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such repair:

Labor cost	Parts cost	Total cost per airplane
16 workhours × $60 per hour = $960.	No parts required.	$960

Compliance Time of this Proposed AD

What Would Be the Compliance Time of This Proposed AD?

The compliance time of this proposed AD is within 90 days after the effective date of this AD, unless already accomplished.

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-in-Service (TIS)?

Failure of the pressure dome is only unsafe during airplane operation. However, this unsafe condition is not a result of the number of times the airplane is operated. The chance of this situation occurring is the same for an airplane with 10 hours TIS as it would be for as airplane with 500 hours TIS. For this reason, FAA has determined that a compliance based on calendar time should be utilized in this AD in order to assure that the unsafe condition is addressed on all airplanes in a reasonable time period.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Pilatus Aircraft Company Ltd.: Docket No. 2002–CE–53–AD

(a) *What airplanes are affected by this AD?* This AD affects Models PC–12 and PC–12/45 airplanes, that are certificated in any category, with the following serial numbers: 101 through 380, 382 through 385, 387 through 395, 398 through 406, 408, 409, 413, 415, and 417.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct damage and cracks to the pressure dome, which could lead to rapid decompression.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect the pressure dome for crack/nick/scratch damage.	Within the next 90 days after the effective date of this AD, unless already accomplished.	In accordance with Pilatus Aircraft Ltd. PC–12 Service Bulletin No. 53–003, Revision 1, dated July 26, 2002, and the applicable maintenance manual.
(2) If during the inspection required by paragraph (d)(1) of this AD, type ''A'' or ''B'' nick/scratch damage (as specified in the service information) is found, accomplish repairs.	Prior to further flight after the inspection in which the type ''A'' or ''B'' nick/scratch damage is found.	In accordance with Pilatus Aircraft Ltd. PC–12 Service Bulletin No. 53–003, Revision 1, dated July 26, 2002, and the applicable maintenance manual.
(3) Pursuant to paragraph (d)(2) of this AD, if a repair was done in which metal was removed to a depth of more than 0.008 inches (0.2 millimeter) (type ''C''), you must obtain approval of the repair scheme from the manufacturer through FAA at the address specified in paragraph (f) of this AD. If you do not receive through FAA an approval within 90 days or 600 takeoff/landings of the repair date, whichever occurs later, the aircraft is restricted to unpressurized flight only.	Within 90 days or 600 takeoffs/landings of the repair date, whichever occurs first.	In accordance with Pilatus Aircraft Ltd. PC–12 Service Bulletin No. 53–003, Revision 1, dated July 26, 2002, and the applicable maintenance manual.
(4) If during the inspection required by paragraph (d)(1) of this AD, type ''C'' nick/scratch damage (as specified in the service information) is found, use a 10X magnified visual inspection to repetitively inspect for cracks. If cracks are found:.	If type ''C'' damage is found, inspect for cracks prior to further flight and every 10 hours TIS thereafter. Obtain an FAA approval within 90 days or 600 takeoffs/landings, whichever occurs first, from the date of repair for type of ''C'' damage. An FAA approval is required to fly pressurized beyond 90 days or 600 landings/takeoffs, whichever occurs first, from date of repair for type ''C damage.	In accordance with Pilatus Aircraft Ltd. PC–12 Service Bulletin No. 53–003, Revision 1, dated July 26, 2002, and the applicable maintenance manual.
(i) Obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (f) of this AD.		
(ii) Incorporate this repair scheme		
(5) If damage is found outside of the inspection area during the inspection required by paragraph (d)(1) of this AD, do not apply any of the repair procedures from Pilatus Aircraft Ltd. PC–12 Service Bulletin No. 53–003, Revision 1, dated July 26, 2002, to damage. If such damage is found:.	Prior to further flight after the inspection in which the damage outside the inspection area is found.	Obtain this repair scheme through FAA at the address specified in paragraph (f) of this AD.
(i) Obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (f) of this AD.		
(ii) Incorporate this repair scheme.		

Note 1: As earlier specified in this AD, flight is not permitted if crack damage is found.

Note 2: As earlier specified in this AD, FAA approval is required to fly pressurized beyond 90 days or 600 takeoffs/landings, whichever occurs first, from date of repair for type ''C'' damage.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Standards Office Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Standards Office Manager.

Note 3: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in Swiss AD Number HB 2002–608, dated November 1, 2002.

Issued in Kansas City, Missouri, on January 8, 2003.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–672 Filed 1–13–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–52–AD]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. KG Models S10 and S10–V Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Stemme GmbH & Co. KG (Stemme) Models S10 and S10–V sailplanes. This proposed AD would require you to modify the engine compartment fuel and oil system and firewall. This proposed AD is the result of FAA's determination that the actions required in AD 2002–22–04 should also be accomplished on other sailplanes of similar type design. The actions specified by this proposed AD are intended to reduce the potential for a fire to ignite in the engine compartment and to increase the containment of an engine fire in the engine compartment. A fire in the engine compartment could lead to loss of control of the sailplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before February 21, 2003.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–52–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov*. Comments sent electronically must contain ''Docket No. 2002–CE–52–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany; telephone: 49.33.41.31.11.70; facsimile: 49.33.41.31.11.73. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the proposed rule. You may view all comments we receive before and after the closing date of the proposed rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How can I be sure FAA receives my comment? If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2002–CE–52–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, reported an incident of an in-flight fire on a Model S10-VT sailplane. The accident investigation revealed that the fire was not contained in the engine compartment. The manufacturer conducted a design review and determined that modifications to the fuel and oil system and the firewall design will significantly reduce the potential for a fire to ignite in the engine compartment and increase the containment of an engine fire in the engine compartment.

This condition caused us to issue AD 2002–22–04, Amendment 39–12928 (67 FR 66547, November 1, 2002). AD 2002–22–04 requires the following on certain Model S10–VT airplanes:

—modify the engine compartment fuel and oil system; and

—modify the firewall by sealing all gaps.

Although Stemme Models S10 and S10–V sailplanes have a different engine installation (non-turbocharged), they are of similar type design as Stemme Model S10–VT sailplanes. We have determined that similar modifications should also be incorporated on these sailplanes. The LBA has determined that these modifications are not mandatory for sailplanes registered outside of the United States.

What are the consequences if the condition is not corrected? If this condition is not prevented, there is potential for a fire to ignite in the engine compartment and spread into the cockpit. Such a condition could lead to loss of control of the sailplane.

Is there service information that applies to this subject on the affected airplanes? Stemme has issued Service Bulletin Document Number A31–10–057, dated June 7, 2001, Service Bulletin Document Number A31–10–063, dated September 11, 2002 , and Installation Instruction Document Number A34–10–063E, dated August 26, 2002.

What are the provisions of this service information? These service documents include procedures for:

—modifying the engine compartment fuel and oil system; and

—modifying the firewall by sealing all gaps.

Was this in accordance with the bilateral airworthiness agreement? These sailplane models are manufactured in Germany and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the LBA kept FAA informed of its decision on this matter.

The FAA's Determination and an Explanation of the Provisions of this Proposed AD

What has FAA decided? The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that:

—the unsafe condition referenced in this document exists or could develop

on other Stemme Models S10 and S10–V sailplanes of the same type design that are on the U.S. registry;

—similar actions specified in AD 2002–22–04 should also be accomplished on these sailplane models;

—the actions specified in the previously-referenced service information should be accomplished on the affected sailplanes; and

—AD action should be taken in order to correct this unsafe condition.

What would this proposed AD require? This proposed AD would require you to incorporate the actions in the previously-referenced service information.

Cost Impact

How many sailplanes would this proposed AD impact? We estimate that this proposed AD affects 15 sailplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected sailplanes? We estimate the following costs to accomplish the proposed modifications:

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. operators
10 workhours × $60 per hour = $600	$620	$1,220	$1,220 × 15 = $18,300.

Compliance Time of this Proposed AD

What would be the compliance time of this proposed AD? The compliance time of this proposed AD is ''within the next 50 hours time-in-service (TIS) or 6 months after the effective date of this AD, whichever occurs first.''

Why is the compliance time of this proposed AD presented in both hours TIS and calendar time? The unsafe condition on these sailplanes is not a result of the number of times the sailplane is operated. Sailplane operation varies among operators. For example, one operator may operate the sailplane 50 hours TIS in 6 months while it may take another operator 12 months or more to accumulate 50 hours TIS. For this reason, the FAA has determined that the compliance time of this proposed AD should be specified in both hours TIS and calendar time in order to ensure this condition is not allowed to go uncorrected over time.

Regulatory Impact

Would this proposed AD impact various entities? The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Stemme Gmbh & Co. KG: Docket No. 2002–CE–52–AD

(a) *What sailplanes are affected by this AD?* This AD affects Models S10 and S10–V sailplanes, all serial numbers, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the sailplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to reduce the potential for a fire to ignite in the engine compartment and to increase the containment of an engine fire in the engine compartment. A fire in the engine compartment could lead to loss of control of the sailplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
Modify the firewall by sealing all gaps and modify the fuel and oil lines in the engine compartment.	Within the next 50 hours time-in-service (TIS) or 6 months after the effective date of this AD, whichever occurs first.	Modify the firewall in accordance with Stemme Service Bulletin A31–10–057, dated June 7, 2001, as specified in Stemme Service Bulletin A31–10–063, dated September 11, 2002. Modify the fuel and oil lines in accordance with Stemme Service Bulletin A31–10–063, dated September 11, 2002, and Stemme Installation Instruction A34–10–063E, dated August 26, 2002.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Standards Office, Small Airplane Directorate, approves your alternative. Submit your request through an

FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standards Office.

Note: This AD applies to each sailplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

(g) *What if I need to fly the sailplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your sailplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany; telephone: 49.33.41.31.11.70; facsimile: 49.33.41.31.11.73. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on January 8, 2003.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–673 Filed 1–13–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 158

[Docket No. FAA–2002–13918; Notice No. 02–19]

RIN 2120–AH43

Revisions to Passenger Facility Charge Rule for Compensation to Air Carriers; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This action extends the comment period for an NPRM the FAA issued on November 20, 2002. In that document, the FAA proposed to amend the passenger facility charge regulation (PFC) by changing the amount and unit of collection that a carrier may retain for collecting and handling PFC revenue. This extension is a result of a joint request from the American Association of Airport Executives (AAAE) and the Airports Council International—North America (ACI–NA).

DATES: Send your comments on or before February 12, 2003.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–13918 at the beginning of your comments, and you should send two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also send comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing comments to these proposed regulations in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joseph Hebert, Passenger Facility Charge Branch, APP–530, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone: (202) 267–3845, facsimile (202) 267–5302.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments about the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal because of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Background

On November 20, 2002, the FAA issued Notice No. 02–19, Revisions to Passenger Facility Charge Rule for Compensation to Air Carriers (67 FR 70878, November 27, 2002). Comments to that document were to be received on or before January 13, 2003.

On December 20, 2002, AAAE and ACI–NA jointly asked the FAA to extend the comment period to Notice No. 02–19 an additional 120 days. In the request, AAAE and ACI–NA note that air carriers had six years to collect economic data presented in the proposal supporting their request for an increase in PFC handling charges. AAAE and ACI–NA assert that 45 days is not enough time for other interested parties to review and comment on the air carrier economic data, especially since two holidays fell within the comment period.

In response to the AAAE and ACI–NA joint request for an extension of the comment period, the Air Transport Association (ATA) submitted a letter to the public docket on December 30, 2002, urging FAA to deny the request for an extension. ATA asserts that the air carrier data was compiled using procedures recommended by the Department of Transportation Office of the Inspector General. ATA contends that the data is reliable and finds that additional time to review the data is not necessary.

The FAA has considered these arguments and finds that an extension of the comment period to Notice No. 02–19 is in the public interest considering that two holidays fell within the comment period. However,

the FAA believes that a 120-day extension would be excessive. The FAA believes an additional 30 days would be adequate for interested parties to review the economic data presented in the proposal and provide meaningful comment to Notice No. 02–19. Absent unusual circumstances, the FAA does not anticipate any further extension of the comment period for this rulemaking.

Extension of Comment Period

In accordance with § 11.47(c) of Title 14, Code of Federal Regulations, the FAA has reviewed AAAE's and ACI–NA's joint request for an extension of the comment period to Notice No. 02–09. The FAA finds that extension of the comment period is consistent with the public interest, and that good cause exists for taking this action. AAAE and ACI–NA have demonstrated substantive interest in the proposed rule and good cause for the extension.

Accordingly, the comment period to Notice No. 02–19 is extended until February 12, 2003.

Issued in Washington, DC, January 10, 2003.

Benito DeLeon,

Acting Director, Office of Airport Planning and Programming.

[FR Doc. 03–820 Filed 1–10–03; 12:04 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1915

[Docket No. S–051]

RIN 1218–AB51

Fire Protection in Shipyard Employment

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of Proposed Rulemaking; correction.

SUMMARY: In the December 11, 2002, **Federal Register**, OSHA published a proposed standard for Fire Protection in Shipyard Employment, Subpart P of 29 CFR Part 1915 (67 FR 76214). The docket number that was published in the ''Supplementary Information: Addresses'' section of the preamble, H–011G, is incorrect. OSHA is correcting these errors.

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie Friedman, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N3647, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210 (202–219–8148).

SUPPLEMENTARY INFORMATION:

Correction of Publication

On page 76214, in the first and second columns, the docket number ''H–011G'' is corrected to read ''S–051'' both places it appears.

Authority and Signature

This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

The actions in this document are taken pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 5–2002 (67 FR 65008), and 29 CFR part 1911.

Signed at Washington, DC this 30th day of December, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 03–401 Filed 1–13–03; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC89

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Documents Incorporated by Reference—API RP 14F and API RP 14FZ

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: MMS is proposing to update one document already incorporated by reference into our regulations, and add another document to be incorporated by reference for the first time into our regulations governing oil and gas and sulphur operations in the Outer Continental Shelf (OCS). These revisions will ensure that lessees use the best available and safest technologies while operating in the OCS. The updated document, API RP 14F, is the Fourth Edition of the American Petroleum Institute's (API) Recommended Practice for Design and Installation of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Division 1 and Division 2 Locations. The new document, API RP 14FZ, is titled ''Recommended Practice for Design and Installation of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Zone 0, Zone 1 and Zone 2 Locations.''

DATES: We will consider all comments we receive by March 17, 2003. We will begin reviewing comments then and may not fully consider comments we receive after March 17, 2003.

ADDRESSES: Mail or hand-carry comments (three copies) to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team (Comments). If you wish to e-mail your comments, the address is *rules.comments@MMS.gov.* Reference ''1010AC89—API RP 14F and API RP 14FZ'' in your subject line. Include your name and return address in the message and mark it for return receipt.

FOR FURTHER INFORMATION CONTACT: Richard Ensele, Operations Analysis Branch, at (703) 787–1583, or David Nedorostek, Operations Analysis Branch, at (703) 787–1029.

SUPPLEMENTARY INFORMATION: We use standards, specifications, and recommended practices developed by standard-setting organizations and the oil and gas industry for establishing requirements for activities in the OCS. This practice, known as incorporation by reference, allows us to incorporate the provisions of technical standards into the regulations without increasing the volume of the Code of Federal Regulations. The legal effect of incorporation by reference is that the material is treated as if it were published in the **Federal Register**. This material, like any other properly issued regulation, then has the force and effect of law. We hold operators/lessees accountable for complying with the documents incorporated by reference in our regulations. The regulations, found at 1 CFR Part 51, govern how MMS and other Federal agencies incorporate various documents by reference. Agencies can only incorporate by reference through publication in the **Federal Register**. Agencies must also gain approval from the Director of the Federal Register for each publication incorporated by reference. Incorporation by reference of a document or publication is limited to the specific edition or to the specific edition and supplement or addendum cited in the regulations.

This proposed rule will update API RP 14F, Third Edition, September 1, 1991, Recommended Practice for Design

and Installation of Electrical Systems for Offshore Production Platforms that is currently incorporated by reference into MMS regulations in 30 CFR 250.114. The proposed rule will also incorporate by reference into MMS regulations at 30 CFR 250.114, for the first time, the provisions of API RP 14FZ. The provisions of 30 CFR 250.114 apply only to platforms, artificial islands, fixed structures, and their facilities. Therefore, any requirements for floating facilities in these two documents will not apply. Under the Memorandum of Understanding (MOU) between the Minerals Management Service, U.S. Department of the Interior and the United States Coast Guard (USCG), U.S. Department of Transportation, dated December 16, 1998, the USCG is responsible for electrical systems on floating facilities. Additionally, according to the MOU, the USCG is responsible for aids to navigation, emergency lighting, survival craft, and general alarms, so any such references in these two documents do not apply.

We have reviewed these documents and have determined that the latest editions of both documents should be incorporated into the regulations to ensure the use of the best available and safest technologies. The title of API RP 14F has been changed in the Fourth Edition to conform with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, which is currently incorporated into MMS regulations. Our review shows that the changes between the old (Third) edition and the new (Fourth) edition are minor. Most of the changes apply to floating facilities, and are, therefore, not part of this rulemaking for the reasons cited above. In addition, the Third Edition is not readily available to affected parties because it is out of print. The oil and gas industry is already building new structures in accordance with the provisions of the Fourth Edition of this standard. Also, the Fourth Edition has been revised using an API standard editorial format.

Summary of the Changes in the Fourth Edition of API RP 14F Pertaining to Platforms, Artificial Islands, Fixed Structures, and their Facilities

In the fourth edition of 14F several subsections that were contained in the third edition have been consolidated in a subsection titled Protection Techniques Related to Equipment Installed in Locations Classified as Division 1 and Division 2. These include explosion proof equipment, hermetically sealed devices, intrinsically safe devices, nonincendive equipment, and purged enclosures. No new requirements were imposed.

In the fourth edition of 14F, cable-shielding considerations have been added to the Electrical Distribution Systems section. This allows for the installation of metal clad cables in lieu of sealed conduits for electrical wiring. The use of metal clad cables could result in savings to industry of up to 40% over the use of sealed conduits and conventional wiring practices. Both methods of cable shielding provide for equal safety.

Subsections have been added to the fourth edition of 14F to cover advances in technology in battery-powered DC supply systems (uninterruptible power supplies), electric oil-immersion heaters, cathodic protection, and hand held electronic devices. These four new subsections cover equipment that is now in standard use on OCS structures, but that was not in the early 1990's when the third edition was completed. These new subsections should not impose any new costs on the industry, since operators are already using this equipment.

Review of API RP 14FZ

The two recommended practices addressed by this rulemaking are nearly identical. The original version (14F) is to be used with the electrical classification system contained in API RP 500. This system of electrical classification differentiates locations by ''Divisions.'' This document (API RP 500) is already incorporated by reference into the regulations. A similar document, API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, is also currently incorporated by reference into the regulations. This system classifies hazardous locations by ''Zones'' based on how long a hazardous vapor is present. The new 14FZ document is to be used with API RP 505. The difference between the two pairs of documents, 14F/500 and 14FZ/505, is that 14F/500 uses two ''Divisions'' to classify hazardous areas while 14FZ/505 uses three ''Zones'' to define these classified hazardous areas. The 14F document defines techniques for protection from fires in the Division system. The 14FZ document defines protection techniques in the Zone system for hazardous locations. Both systems provide for safe work environments for personnel. The protection techniques identified for the Division system are not all acceptable for the Zone system, and vice versa. The Zone system identifies more protection techniques than the Division system, however, both systems have proven their safety by comparisons of both systems through the National Electrical Code, Factory Mutual, and Underwriters Laboratories. The operator could realize cost savings if the Zone system (505/14FZ) is used in classifying and designing electrical systems. We are proposing to incorporate the new API RP 14FZ to complete the set of documents in the regulations, and give lessees a choice in installing electrical systems. The incorporation of API RP 14FZ will not impose any additional costs on the industry, since it is nearly identical to API RP 14F and may result in cost savings. The operators must use one set of documents or the other to design and install electrical systems on their facilities. The costs for complying with the documents are similar. We're merely giving the industry a choice in regard to classifying and installing electrical systems under the API RP 500 system or the API RP 505 system.

Procedural Matters

Public Comments Procedure

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by the law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address you must state this prominently at the beginning of the comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Background

This proposed rulemaking will update one document that is currently incorporated by reference in the regulations and will add another document to those incorporated by reference in the regulations. The differences between the Third Edition and the Fourth Edition of API RP 14F are very minor. The minor differences will not cause a significant economic effect on any entity (small or large), and may result in cost savings due to the inclusion of metal clad cable. In fact, the

oil and gas industry is already building structures using the new standard. Therefore, this regulation's impact on the entire industry is minor. The addition of API RP 14FZ will give the industry a choice in designing and installing electrical systems on offshore facilities.

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

The rule may have a positive economic impact because of the cost savings from using shielded cables in lieu of sealed conduits. Otherwise, the documents do not contain any significant revisions that will cause lessees or operators to change their business practices. The documents will not require the retrofitting of any facilities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility (RF) Act

The Department of the Interior (DOI) certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities as defined under the RF Act (5 U.S.C. 601 *et seq.*). The provisions of this rule will not have a significant economic effect on offshore lessees and operators, including those that are classified as small businesses. The Small Business Administration (SBA) defines small business as having:

- Annual revenues of $5 million or less for exploration service and field service companies.
- Fewer than 500 employees for drilling companies and for companies that extract oil, gas, or natural gas liquids.

The API documents proposed for incorporation into MMS regulations cover electrical installations on offshore structures. The documents to be incorporated by this rule have been used by the industry for many years, and the latest editions represent state-of-the-art industry equipment and practices. The structures currently being built are being constructed according to the requirements in either API RP 14F (Fourth Edition) or API RP 14FZ.

The proposed rule's purpose is to update one document that is currently incorporated by reference in the regulations, and to incorporate by reference a new nearly identical document into the regulations. The differences between the newer document and the older document are very minor. The updated document consolidates several subsections in a new subsection covering protection techniques. In addition, cable shielding considerations were added to the updated document. This allows for the installation of metal clad cables in lieu of sealed conduits. The use of metal clad cables could result in savings to industry of up to 40% over the use of sealed conduits and conventional wiring practices. Other subsections have been added to the updated document to cover advances in technology. New subsections cover equipment that is now in standard use on OCS facilities, but that was not in use in the early 1990's when the older Third Edition was completed, and incorporated into the regulations. These new subsections should not impose any additional costs to industry, since operators are already using this new equipment and technology. By incorporating both 14F and 14FZ, which are nearly identical, but utilize different classification systems, we are giving the industry a choice in electrical classification methods.

Under the North American Industry Classification System Code 211111, Crude Petroleum and Natural Gas Extraction, MMS estimates that a total of 1,380 firms drill oil and gas wells onshore and offshore. The group affected by this rule is the approximately 130 companies that are offshore lessees/operators. According to SBA criteria, approximately 90 companies are small business (70 percent). As discussed above, this rule imposes no new operational requirements, reporting burdens, or other measures that would increase costs to lessees/operators, large or small. Therefore, this rule has no significant economic impact on small entities.

Comments from the public are important to us. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the Department of the Interior.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The proposed rule will not cause any significant costs to lessees or operators. The only costs will be the purchase of the new documents and minor revisions to some operating and maintenance procedures. The minor revisions to operating and maintenance procedures may result in some minor costs or may actually result in minor cost savings.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

(c) Does not have significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

Paperwork Reduction Act (PRA) of 1995

There are no information collection requirements associated with this rule. The DOI has determined that this regulation does not contain information collection requirements pursuant to the PRA (44 U.S.C. 3501 *et seq.*) We will not be submitting an information collection request to OMB.

Federalism (Executive Order 13132)

According to Executive Order 13132, the rule does not have significant Federalism effects. This rule will not substantially and directly affect the relationship between the federal and state governments. This rule will simply update one document and add one document incorporated by reference to ensure that the industry uses the best and safest technologies. This rule does not impose costs on states or localities. Any costs incurred affect only the oil industry and will be minor.

Takings Implication Assessment (Executive Order 12630)

According to Executive Order 12630, this rule does not have significant

Takings implications. A Takings Implication Assessment is not required.

Energy Supply, Distribution, or Use (Executive Order 13211)

The rule does not have a significant effect on energy supply, distribution, or use because it merely updates one standard already incorporated by reference and adds a new standard to be incorporated by reference that will provide for uniform maintenance and inspection practices. Thus, a Statement of Energy Supply, Distribution, or Use is not required.

Civil Justice Reform (Executive Order 12988)

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Unfunded Mandates Reform Act (UMRA) of 1995

This rule does not impose an unfunded mandate on state, local, and tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on state, local, or tribal governments or the private sector. A statement, containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*), is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: December 23, 2002.

Rebecca W. Watson,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service proposes to amend 30 CFR Part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

2. In § 250.114, paragraph (c) is revised to read as follows:

§ 250.114 How must I install and operate electrical equipment?

* * * * *

(c) You must install all electrical systems according to API RP 14F, Recommended Practice for Design and Installation of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Division 1 and Division 2 Locations (incorporated by reference as specified in § 250.198), or API RP 14FZ, Recommended Practice for Design and Installation of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Zone 0, Zone 1, and Zone 2 Locations (incorporated by reference as specified in § 250.198).

* * * * *

3. In § 250.198, in the table in paragraph (e), the entry for API RP 14F is revised and a new entry for document API RP 14FZ is added in alphanumeric order to read as follows:

§ 250.198 Documents incorporated by reference.

* * * * *

(e) * * *

Title of document	Incorporated by reference at
* * * * * * *	
API RP 14F, Recommended Practice for Design and Installation of Electrical Systems for Fixed and Floating Offhsore Petroleum Facilities for Unclcassified and Class I, Division 1 and Division 2 Locations, Fourth Edition, June 1999, API Stock No. G14F04.	§ 250.114(c); § 250,803(b)(9)(v); § 250.1629(b)(4)(v)
API RP 14FZ, Recommended Practice for Design and Installation of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Zone 0, Zone 1, and Zone 2 Locations, First Edition, September 2001, API Stock No, G14FZ1.	§ 250.114(c); § 250.803(b)(9)(v); § 250.1629(b)(4)(v)
* * * * * * *	

4. In § 250.803, paragraph (b)(9)(v) is revised to read as follows:

§ 250.803 Additional production system requirements.

* * * * *

(9) * * *

(v) Fire- and gas-detection systems must be an approved type, designed and installed according to API RP 14C, API RP 14G, and API RP 14F or API RP 14FZ (the preceding four documents incorporated by reference as specified in § 250.198).

* * * * *

5. In § 250.1629, paragraph (b)(4)(v) is revised to read as follows:

§ 250.1629 Additional production and fuel gas system requirements.

* * * * *

(4) * * *

(v) Fire- and gas-detection systems must be an approved type, designed and installed according to API RP 14C, API RP 14G, and API RP 14F or API RP 14FZ (the preceding four documents incorporated by reference as specified in § 250.198).

* * * * *

[FR Doc. 03–665 Filed 1–13–03; 8:45 am]

BILLING CODE 4310–MR–P

Notices

Federal Register

Vol. 68, No. 9

Tuesday, January 14, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCIES: Rural Housing Service (RHS), Rural Utilities Service (RUS), Rural Business-Cooperative Service (RBS), and Farm Service Agency (FSA), USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named Agencies to request an extension for the currently approved information collection in support of the servicing of Community and Direct Business Programs Loans and Grants.

DATES: Comments on this notice must be received by March 17, 2003 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: For inquiries on the Information Collection Package, contact Cheryl Thompson, Regulations and Paperwork Management Branch, at (202) 692–0043. For program content, contact Beth Jones, Senior Loan Specialist, Community Programs Servicing and Special Authorities Branch, RHS, USDA, 1400 Independence Ave., SW., Mail Stop 0787, Washington, DC 20250–0787, Telephone (202) 720–1498, E-mail *epjones@rdmail.rural.usda.gov.*

SUPPLEMENTARY INFORMATION: *Title:* 7 CFR 1951–E, Servicing of Community and Direct Business Programs Loans and Grants.

OMB Number: 0575–0066.

Expiration Date of Approval: April 30, 2003.

Type of Request: Extension of a currently approved information collection.

Abstract: The following Community and Direct Business Programs Loans and Grants are serviced by this currently approved docket (0575–0066): The Community Facilities loan and grant program is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public entities, nonprofit corporations, and Indian tribes through the Community Facilities program for the development of essential community facilities primarily serving rural residents. The Economic Opportunity Act of 1964, Title 3 (Pub. L. 88–452), authorizes Economic Cooperative Loans to assist incorporated and unincorporated associations to provide to low-income rural families essential processing, purchasing, or marketing services, supplies, or facilities.

The Food Security Act of 1985, section 1323 (Pub. L. 99–198), authorizes loan guarantees and grants to Nonprofit National Corporations to provide technical and financial assistance to for-profit or nonprofit local businesses in rural areas.

The Water and Waste Disposal program is authorized by section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) to provide basic human amenities, alleviate health hazards, and promote the orderly growth of the rural areas of the Nation by meeting the need for new and improved water and waste disposal systems.

The Business and Industry program is authorized by section 310 B (7 U.S.C. 1932) (Pub. L. 92–419, August 30,1972) of the Consolidated Farm and Rural Development Act to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities, including pollution abatement control.

The Consolidated Farm and Rural Development Act, section 310 B(c) (7 U.S.C. 1932(c)), authorizes Rural Business Enterprise Grants to public bodies and nonprofit corporations to facilitate the development of private businesses in rural areas.

The Consolidated Farm and Rural Development Act, section 310 B(f)(i) (7 U.S.C. 1932(c)), authorized Rural Cooperative Development Grants to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers for rural cooperative development.

The FSA is authorized by 25 U.S.C. 488–494 to make loans through its Indian Tribal Land Acquisition loan program to individuals, tribes, or tribal corporations, within tribal reservations and Alaskan communities. The authority for FSA to make loans for grazing, irrigation and drainage, and farm ownership recreation loans is provided by the Consolidated Farm and Rural Development Act CONACT)(7 U.S.C. 1926 330–381).

The purpose of the loan and grant servicing function for the above programs is to assist recipients to meet the objectives of the loans and grants, repay loans on schedule, comply with agreements, and protect the Government's financial interest. Routine servicing responsibilities include collection of payments, compliance reviews, security inspections, review of financial reports, determining applicant/borrower eligibility and project feasibility for various servicing actions, and supervision activities.

Supervision by the Agencies include, but is not limited to: Review of budgets, management reports, audits and financial statements; performing security inspections and providing, arranging, or recommending technical assistance; evaluating environmental impacts of proposed actions by the borrower; and performing civil rights compliance reviews.

Information will be collected by the field offices from applicants, borrowers, consultants, lenders, and attorneys.

Failure to collect information could result in improper servicing of these loans.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: State, local or tribal Governments, Not-for-profit institutions, businesses, and individuals.

Estimated Number of Respondents: 275.

Estimated Number of Responses per Respondent: 2.

Estimated Number of Responses: 421.

Estimated Total Annual Burden on Respondents: 465.

Copies of the information collection can be obtained from Cheryl Thompson,

Regulations and Paperwork Management Branch, at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agencies, including whether the information will have practical utility; (b) the accuracy of the Agencies' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, 7th Floor, Room 701, 300 7th Street, SW., Washington, DC 20024. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: December 16, 2002.

Arthur A. Garcia,

Administrator, Rural Housing Service.

Dated: December 20, 2002.

John Rosso,

Administrator, Rural Business-Cooperative Service.

Dated: December 20, 2002.

Hilda Legg,

Administrator, Rural Utilities Service.

Dated: December 23, 2002.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 03–726 Filed 1–13–03; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 02–047N]

Codex Alimentarius Commission: 35th Session of the Codex Committee on Food Additives and Contaminants

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting, request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, United States Department of Agriculture, and the Food And Drug Administration (FDA) are sponsoring a public meeting on January 30, 2003, to provide information and receive public comments on agenda items that will be discussed at the meeting of the Codex Committee on Food Additives and Contaminants (CCFAC), which will be held in Arusha, Tanzania, on March 17–21, 2003. The Under Secretary and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the Thirty-fifth Session of the Additives and Contaminants Committee of the Codex Alimentarius Commission (Codex) and to address items on the Agenda for the 35th CCFAC.

DATES: The public meeting is scheduled for Thursday, January 30, 2003, from 1 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held in the Auditorium, Harvey W. Wiley Federal Building, 5100 Paint Branch Parkway, College Park, Maryland. To receive copies of the documents referenced in the notice contact the FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/ccfac35/fa03_01e.htm*. If you have comments, please send an original and two copies to the FSIS Docket Clerk and reference Docket # 02–047N. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Ph.D., U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue SW., Washington, DC 20250, Phone: (202) 205–7760, Fax: (202) 720–3157. Attendees are requested to pre-register as soon as possible by e-mail to *USCCFAC@CFSAN.FDA.GOV*.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for protecting the health and economic interests of consumers and encouraging fair international trade in food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and EPA manage and carry out U.S. Codex activities.

The Codex Committee on Food Additives and Contaminants establishes or endorses maximum or guideline levels for individual food additives, for contaminants (including environmental contaminants), and for naturally occurring toxicants in foodstuffs and animal feeds. In addition the Committee prepares priority lists of food additives and contaminants for toxicological evaluation by the Joint FAO/WHO Expert Committee on Food Additives; recommends specifications of identity and purity for food additives for adoption by the Commission; considers methods of analysis for the determination of food additives and contaminants in food; and considers and elaborates standards or codes for related subjects such as the labelling of food additives when sold as such, and food irradiation. The Committee is chaired by The Netherlands.

Issues To Be Discussed at the Public Meeting

The provisional agenda items will be discussed during the public meeting:

1. Adoption of the Agenda (CX/FAC 03/1).

2. Matters referred by the Codex Alimentarius Commission and other Codex Committees (CX/FAC 03/2).

3. Summary Report of the 59th Meeting of the Joint FAO/WHO Expert Committee on Food Additives (JECFA).

4. Action Required as a Result of Changes in ADI Status and other Toxicological Recommendations (CX/FAC 03/3).

5. Comments Submitted on the Proposed Draft Risk Assessment Policy Statement for the Application of Risk Analysis Principles to the Standard Setting Activities of the CCFAC in Conjunction with the Risk Assessments Performed by the JECFA.

Food Additives

6. Endorsement and/or Revision of Maximum Levels for Food Additives in Codex Standards (CX/FAC 03/5).

7. Consideration of the Codex General Standard for Food Additives.

(a) Report of the ad hoc Working Group on the Codex General Standard for Food Additives.

(b) Proposed Draft Revised Preamble to the Codex General Standard for Food Additives (CX/FAC 03/6).

(c) Proposed Draft Revised Food Category System of the Codex General Standard for Food Additives (CX/FAC 03/7).

(d) Comments Submitted on the Proposed Draft and Draft Revisions to Table 1 of the Codex General Standard for Food Additives in response to CL 2002/10–FAC and CL 2002/44–FAC.

(e) Comments Submitted on the Draft Revisions to the Annex to Table 3 of the Codex General Standard for Food Additives submitted in response to CL 2002/10–FAC.

8. Comments Submitted on the Discussion Paper on Processing Aids and Carriers (CX/FAC 02/9) in response to CL 2002/10–FAC.

9. Discussion Paper on the Use of Active Chlorine (CX/FAC 03/11).

10. (a) Draft Revised Codex General Standard for Irradiated Foods (CX/FAC 03/12).

(a) Consideration of a Revision or Amendments to the Guidelines Levels for Radionuclides in Foods Following Accidental Nuclear Contamination for Use in International Trade (CAC/GL 5–1989), including Guideline Levels for Radionuclides for Long-Term Use (CX/FAC 03/13).

11. (a) Report of the ad hoc Working Group on Specifications.

(b) Specifications for the Identity and Purity of Food Additives Arising from the 59th JECFA Meeting (CX/FAC 03/14).

12. (a) Comments Submitted on Revisions to the International Numbering System in response to CL 2002/29–FAC.

(b) Discussion Paper on the Harmonization of Terms Used by Codex and the Joint FAO/WHO Expert Committee on Food Additives for Sub-Classes and Technological Functions (CX/FAC 032/16).

Contaminants

13. Endorsement and/or Revision of Maximum Levels for Contaminants in Codex Standards (CX/FAC 03/17).

14. Codex General Standard for Contaminants and Toxins in Foods.

(a) Report of the ad hoc Working Group on Contaminants and Toxins.

(b) Schedule 1 of the Proposed Draft Codex General Standard for Contaminants and Toxins in Foods. (CX/FAC 03/18).

(c) Proposed Draft Principles for Exposure Assessment of Contaminants and Toxins in Foods (CX/FAC 03/19).

15. Mycotoxins in Food and Feed.

(a) Comments Submitted on the Proposed Draft Code of Practice for the Prevention of Patulin. Contamination in Apple Juice and Apple Juice Ingredients in Other Beverages in Response to CL 2002/29–FAC.

(b) Comments Submitted on the Draft Maximum Level for Patulin in Apple Juice and Apple Juice Ingredients in Other Beverages in Response to CL 2002/10–FAC.

(c) Comments Submitted on the Draft Code of Practice for the Prevention (Reduction) of Mycotoxin Contamination in Cereals, Including Annexes on Ochratoxin A, Zearalenone, Fumonisin and Tricothecenes in response to CL 2002/29–FAC.

(d) Discussion Paper on Aflatoxins in Tree Nuts, Including Information Submitted on Aflatoxin Contamination and Methods of Analysis for the Determination of Aflatoxin in Tree Nuts in response to CL 2002/10–FAC (CX/FAC 03/23).

(e) Proposed Draft Code of Practice for the Reduction of Aflatoxin Contamination in Tree Nuts (CX/FAC 03/24).

(f) Discussion Paper on the Development of a Code of Practice for the Reduction of Aflatoxin Contamination in Peanuts (CX/FAC 03/25).

(g) Discussion Paper on Dexoynivalenol, Including Information and Data Submitted on the Occurrence of Deoxynivalenol in Cereals in Response to CL 2002/10–FAC (CX/FAC 02/29).

16. Industrial and Environmental Contaminants in Foods

(a) Comments Submitted on the Draft Maximum Levels for Lead in Fish in Response to CL 2002/10–FAC.

(b) Comments Submitted on the Maximum Level for Lead in Milk and Milk Fat in Response to CL 2002/10–FAC.

(c) Proposed Draft Code of Practice for the Prevention and Reduction of Lead in Food (CX.FAC 03/28).

(d) Discussion Paper on Tin (CX/FAC 03/29).

(e) Comments Submitted on the Proposed Draft Maximum Levels for Tin in Response to CL 2002/10–FAC.

(f) Comments Submitted on the Proposed Draft Maximum Levels for Cadmium in Response to CL 2002/10–FAC.

(g) Position Paper on Dioxins and Dioxin Like PCBs, including Informaiton Submitted on Actual Levels and Methods of Analysis for Dioxin and Dioxin-Like PCBs in Response to CL 2002/10–FAC (CX/FAC 03/32).

(h) Proposed Draft Code of Practice for Source Directed Measures to Reduce Dioxin and Dioxin Like PCB Contamination of Foods (CX/FAC 03/33)

(i) Position Paper on Chloropropanols (CX/FAC 03/34).

General Issues

17. Comments Submitted on the Priority List of Food Additives, Contaminants and Naturally Occurring Toxicants Proposed for Evaluation by JECFA in response to CL 2002/10–FAC (CX/FAC 02/30).

18. Other Business and Future Work

Each issue listed will be fully described in documents distributed, or to be distributed, by The Netherlands' Secretariat to the Meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Public Meeting

At the January 30th public meeting, the agenda items will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (see **ADDRESSES**). Written comments should state that they relate to activities of the 35th CCFAC and Docket # 02–047N.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the ''Constituent Update'' page on the FSIS web site at *http://www.fsis.usda.gov/oa/update/update.htm.* Click on the ''Subscribe to the Constituent Update Listserv'' link, then fill out and submit the form.

Done at Washington, DC on January 8, 2003.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 03–694 Filed 1–13–03; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of Form RD 410–8 ''Applicant Reference Letter.''

DATES: Comments on this notice must be received by March 17, 2003 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Gale Richardson, Loan Specialist, Single Family Housing, Rural Housing Service, 1400 Independence Avenue, SW., Mail Stop 0783, Washington, DC 20250–0783, Telephone (202) 720–1459.

SUPPLEMENTARY INFORMATION: Title: Form RD 410–8, ''Applicant Reference Letter.''

OMB Number: 0575–0091.

Expiration Date of Approval: April 30, 2003.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Housing Service (RHS), under section 502 of Title V of the Housing Act of 1949, as amended, provides financial assistance to construct, improve, alter, repair, replace, or rehabilitate dwellings, which will provide modest, decent, safe, and sanitary housing to eligible individuals in rural areas. To assist a customer, they must provide the Agency with a standard housing application (used by government and private lenders), and provide documentation, including their credit history, to support the same. Form RD 410–8 is used to obtain information about an applicant's credit history that might not appear on a credit report. It is used to document an ability to handle credit effectively for applicants who have not used sources of credit that appear on a credit report.

This form provides a mechanism for following up on repayment history for debts reported by the applicant on the application that do not appear on the credit report. This information is used by the Loan Originator serving the area in which the applicant or borrower will live to determine whether the applicant's credit history meets the Agency criteria. In addition to supplementing or verifying other debts when a credit report is limited and unavailable to determine the applicant's eligibility and credit worthiness, the Form RD 410–8 is widely used by the Agency because credit reports are not always used to obtain credit information when an applicant/borrower lives in a remote area.

RHS must, by law, make available to the applicant, upon request, the source of information used to make an adverse decision. Individual references may be solicited with the clear understanding that if the information is used to deny credit the information will be made available to the applicant upon request. Without this information, the Agency is unable to determine if a customer would qualify for services.

Estimate of Burden: Public burden for this collection of information is estimated to average 6 minutes per response.

Respondents: Applicants seeking direct single family housing loans and grants from the Agency.

Estimated Number of Respondents: 10,000.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 10,000.

Estimated Total Annual Burden on Respondents: 1,000 hours.

Copies of this information collection can be obtained from Renita Bolden, Regulations and Paperwork Management Branch, at (202) 692–0035.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Rural Housing Service, including whether the information will have practical utility; (b) the accuracy of the Rural Housing Service's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Renita Bolden, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, and DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: January 2, 2003.

David J. Villano,

Acting Administrator, Rural Housing Service.

[FR Doc. 03–711 Filed 1–13–03; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact with respect to a request from Georgia Transmission Corporation for financing assistance from RUS to finance the construction of a 230/115 kV switching station and a 230 kV transmission line in Heard and Coweta Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, e-mail at *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: Georgia Transmission Corporation proposes to construct a 230 kV transmission line between its existing Yellowdirt Substation located within the boundary of Plant Wansley in Heard County, Georgia, to a proposed 230 kV switching station to be located in Coweta County, Georgia. The proposed switching station is to be identified as the Dresden Switching Station. The Dresden Switching Station will be located approximately 0.4 miles south of the intersection of Highway 34 and Quimby Jackson Road at the intersection of the Municipal Electric Authority of Georgia's existing Yates-LaGrange 230 kV and Georgia Power Company's 500 kV O'Hara-Wansley Transmission Lines. The proposed transmission line will parallel Georgia Power Company's 500 kV O'Hara-Wansley Transmission line

for 7 miles, then turn west and be routed for 1.12 miles, cross the Chattahoochee River, and traverse another mile to connect to the Yellowdirt Substation.

The transmission line conductors and static wire would be supported by concrete, single-pole, self-supporting and guyed structures. Georgia Transmission Corporation will need to purchase and clear an additional 75-feet of easement for 7 miles where the proposed transmission line will parallel Georgia Power Company's existing 500 kV transmission line and 100-feet of easement for 2.12 miles where the transmission line is cross country.

Copies of the Finding of No Significant Impact are available from RUS at the address provided herein or from Ms. Gayle Houston of Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30085–2088 telephone (770) 270–7748. Ms. Houston's e-mail address is *gayle.houston@gatrans.com*

Dated: December 12, 2002.

Alfred Rodgers,

Acting Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 03–712 Filed 1–13–03; 8:45 am]

BILLING CODE 3410–15–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the South Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting with briefing of the South Dakota Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 4 p.m. on Wednesday, February 12, 2003, at the Holiday Inn City Centre, 100 West 8th Street, Sioux Falls, South Dakota 57104. The purpose of the planning meeting with briefing is to review the status of research on criminal justice issues affecting Native Americans and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 6, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–693 Filed 1–13–03; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201–802]

Gray Portland Cement and Clinker From Mexico; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On September 10, 2002, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers one manufacturer/exporter, CEMEX, S.A. de C.V., and its affiliate, GCC Cemento, S.A. de C.V. The period of review is August 1, 2000, through July 31, 2001.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margin is listed below in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: January 14, 2003.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Brian Ellman, Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3477 or (202) 482–4852, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 10, 2002, the Department of Commerce (the Department) published in the Federal Register the preliminary results of the administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. *See Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker From Mexico*, 67 FR 57379 (September 10, 2002) (*Preliminary Results*).

We invited parties to comment on our *Preliminary Results*. In October 2001, we received case and rebuttal briefs from the petitioner, the Southern Tier Cement Committee, and from the respondents, CEMEX, S.A. de C.V. (CEMEX), and GCC Cemento, S.A. de C.V. (GCCC). The Department has conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than being ground into finished cement. Gray portland cement is currently classifiable under Harmonized Tariff Schedule (HTS) item number 2523.29 and cement clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under HTS item number 2523.90 as ''other hydraulic cements.'' The HTS subheadings are provided for convenience and customs purposes only. The Department's written description remains dispositive as to the scope of the product coverage.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review, and to which we have responded, are listed in the Appendix to this notice and addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Susan Kuhbach, Acting Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary, dated January 8, 2003, which is hereby adopted by this notice. The Decision Memorandum is on file in Import Administration's Central Records Unit, Room B-099 of the main Department of Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly from the Internet at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have corrected certain programming and clerical errors in our preliminary results, where applicable. These changes are discussed in the

relevant sections of the Decision Memorandum.

Final Results of Review

We determine that the following weighted-average margin exists for the collapsed parties, CEMEX and GCCC, for the period August 1, 2000, through July 31, 2001:

Exporter/manufacturer	Weighted-average percentage margin
CEMEX/GCCC	73.74

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of these final results of review. In accordance with 19 CFR 351.212(b), we have calculated an exporter/importer-specific assessment value. For the sales in the United States through the respondent's affiliated U.S. parties, we divided the total dumping margin for the reviewed sales by the total entered value of those reviewed sales. We will direct the Customs Service to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of the entries during the review period (see 19 CFR 351.212(a)).

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Cash-Deposit Requirements

The following deposit requirements shall be effective upon publication of this notice of final results of administrative review for all shipments of gray portland cement and clinker from Mexico,entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash-deposit rate for CEMEX/GCCC will be 73.74 percent; (2) for previously investigated or reviewed companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or any previous reviews or the original less-than-fair-value (LTFV) investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash-deposit rate for all other manufacturers or exporters will continue to be 61.85 percent, which was the ''all others'' rate in the LTFV investigation. See *Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Mexico*, 55 FR 29244 (July 18, 1990). The deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: January 8, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix - Issues in the Decision Memorandum

1. Revocation
2. Sales-Below-Cost Test
3. Arm's-Length Test
4. Regional Assessment
5. Bag vs. Bulk
6. Customer Misclassification
7. Ordinary Course of Trade
8. Interest Rate for Credit Expenses
9. Cash Deposits
10. Ministerial Errors

[FR Doc. 03–728 Filed 1–13–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122–814]

Pure Magnesium from Canada; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of 2000/2001 Administrative Review and Determination Not to Revoke Order in Part.

SUMMARY: On September 9, 2002, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on pure magnesium from Canada. The period of review is August 1, 2000, through July 31, 2001. This review covers imports of pure magnesium from one producer/exporter. We gave interested parties an opportunity to comment on the preliminary results.

For our final results, we have found that sales of the subject merchandise have not been made below normal value. We will instruct the Customs Service not to assess antidumping duties on the subject merchandise exported by this company. Furthermore, we are not revoking the antidumping duty order with respect to pure magnesium from Canada produced by Norsk Hydro Canada, Inc.

EFFECTIVE DATE: January 14, 2003.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder or Scott Holland, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0189 or (202) 482–1279, respectively.

SUPPLEMENTARY INFORMATION:

Background

Since the publication of the preliminary results in this review (*see Pure Magnesium from Canada; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Intent Not to Revoke Order in Part*, 67 FR 57217 (September 9, 2002) (''Preliminary Results'')), the following events have occurred:

On October 9, 2002, U.S. Magnesium LLC (''the petitioner''), filed a case brief.

Scope of the Order

The product covered by this order is pure magnesium. Pure unwrought

magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Granular and secondary magnesium are excluded from the scope currently classifiable under subheading 8104.11.0000 of the Harmonized Tariff Schedule (''HTS''). The HTS item number is provided for convenience and for customs purposes. The written description of the scope of the order remains dispositive.

Period of Review

The period of review (''POR'') is August 1, 2000, through July 31, 2001.

Determination Not to Revoke

The Department of Commerce (''the Department'') ''may revoke, in whole or in part'' an antidumping duty order upon completion of a review under section 751 of the Tariff Act of 1930, as amended (''the Act''). While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia*, that a company requesting revocation must submit the following: (1) A certification that the company has sold the subject merchandise at not less than normal value (''NV'') in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in each of the three years forming the basis of the request in commercial quantities; and (3) an agreement to reinstatement of the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV. *See* 19 CFR 351.222(e)(1). Upon receipt of such a request, the Department may revoke an order, in part, if it concludes that (1) the company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) the continued application of the antidumping duty order is not otherwise necessary to offset dumping; and (3) the company has agreed to its immediate reinstatement in the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV. *See* 19 CFR 351.222(b)(2).

Pursuant to 19 CFR 351.222(e)(1), Norsk Hydro Canada Inc. (''NHCI'') requested revocation of the antidumping duty order. The request was accompanied by certifications that NHCI had not sold the subject merchandise at less than NV during the current period of review and would not do so in the future. NHCI also certified that it sold the subject merchandise to the United States in commercial quantities for a period of at least three consecutive years. Finally, NHCI agreed to immediate reinstatement of the antidumping duty order, as long as any exporter or producer is subject to the order, if the Department concludes that NHCI sold the subject merchandise at less than NV subsequent to the revocation.

We must determine, as a threshold matter, in accordance with 19 CFR 351.222(e)(1)(ii), whether the company requesting revocation sold the subject merchandise in commercial quantities in each of the three years forming the basis of the request. In our *Preliminary Results*, we determined that NHCI did not sell the subject merchandise in the United States in commercial quantities during the POR. *See Preliminary Results* 67 FR at 57219; *see also* the Memorandum from Team to Richard W. Moreland, ''Commercial Quantities,'' dated September 3, 2002, for a discussion of NHCI's selling activity.

After consideration of the comments that were submitted in response to the *Preliminary Results*, we continue to find that NHCI did not sell the subject merchandise in the United States in commercial quantities during at least one of the three years cited by NHCI to support its request for revocation. Further, since the *Preliminary Results*, no facts have arisen to change the Department's decision. *See* ''Issues and Decision Memorandum for the 2000/2001 Administrative Review of Pure Magnesium from Canada; Final Results'' from Susan Kuhbach, Acting Deputy Assistant Secretary AD/CVD Enforcement Group I, Import Administration, to Faryar Shirzad, Assistant Secretary Import Administration, dated January 7, 2003 (''*Decision Memorandum*''). Therefore, we continue to find that NHCI does not qualify for revocation of the order on pure magnesium under 19 CFR 351.222(e)(1)(ii).

Fair Value Comparisons

To determine whether sales of pure magnesium from Canada to the United States were made at less than normal value, we compared export price (''EP'') to NV. Our calculations followed the methodologies described in the *Preliminary Results*.

Changes from the Preliminary Results

We calculated EP and NV based on the same methodologies described in the *Preliminary Results*.

Analysis of Comments Received

The sole issue raised in the case brief in this administrative review is addressed in the *Decision Memorandum*, which is hereby adopted by this notice. A list identifying the issue which the petitioner has raised and to which we have responded in the *Decision Memorandum* is attached to this notice as an Appendix. Parties can find a complete discussion of the issue raised in this review and the corresponding recommendation in this *Decision Memorandum*, which is on file in the Central Records Unit, room B-099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn/frnhome.htm. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Final Results of the Review

As a result of this review, we determine that the following percentage weighted-average margin exists for the period August 1, 2000, through July 31, 2001:

Manufacturer/Exporter	Margin
Norsk Hydro Canada Inc.	Zero

Assessment Rates

In accordance with 19 CFR 351.212(b)(1), we have calculated importer (or customer)-specific assessment rates for the merchandise subject to this review. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to that importer (or customer) and dividing this amount by the total value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate was greater than *de minimis*, we will direct the Customs Service to apply the assessment rates against each of the importer's/customer's entries during the review period. Where an importer (or customer)-specific *ad valorem* rate was less than *de minimis*, we will direct the Customs Service to liquidate without regard to antidumping duties.

All other entries of the subject merchandise during the POR will be liquidated at the antidumping duty rate in place at the time of entry.

The Department will issue appropriate assessment instructions

directly to the Customs Service within 15 days of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for NHCI will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 21.00 percent, the ''All Others'' rate made effective by the less-than-fair-value investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as the only reminder to parties subject to the administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulation and the terms of an APO is a sanctionable violation.

This administrative review and notice are published in accordance with sections 751(a)(1) and 771(i) of the Act.

Dated: January 7, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I

List of Comments in the Issues and Decision Memorandum

Comment 1: Commercial Quantities Benchmark

[FR Doc. 03–727 Filed 1–13–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010603C]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that the U.S. Fish and Wildlife Service (USFWS) has submitted 10 Hatchery and Genetic Management Plans (HGMP) pursuant to the protective regulations promulgated for salmon and steelhead in the Columbia River basin listed under the Endangered Species Act of 1973, as amended (ESA). The HGMPs specify the future management of hatchery programs potentially affecting the Lower Columbia River (LCR) chum salmon, LCR chinook salmon, LCR steelhead, Upper Willamette River (UWR) chinook salmon, and Middle Columbia River (MCR) steelhead in the States of Oregon and Washington. This document serves to notify the public of the availability of the HGMPs for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft HGMPs must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on February 13, 2003.

ADDRESSES: Written comments and requests for copies of the draft HGMPs should be addressed to Richard Turner, Sustainable Fisheries Division, Hatchery and Inland Fisheries Branch, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232 or faxed to (503) 872–2737. The documents are also available on the Internet at *http://www.nwr.noaa.gov/*. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Richard Turner, Portland, OR at phone number (503) 736–4737 or e-mail: *rich.turner@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the LCR chum salmon (*Oncorhynchus keta*), LCR chinook salmon (*O. tshawytscha*), LCR steelhead (*O. mykiss*), UWR chinook salmon (*O. tshawytscha*), and MCR steelhead (*O. mykiss*) Evolutionarily Significant Units (ESU).

Background

The USFWS has submitted to NMFS 10 HGMPs for artificial propagation programs potentially affecting listed adults and juveniles of the LCR chum salmon, LCR chinook salmon, LCR steelhead, UWR chinook salmon, and MCR steelhead ESUs (Table 1). The Little White Salmon/Willard National Fish Hatchery (NFH) Complex rears and releases spring chinook salmon, upriver bright fall chinook salmon, and coho salmon. These programs use hatchery adults that return annually to the Little White Salmon NFH at the mouth of the Little White Salmon River in the state of Washington for broodstock. The spring chinook salmon and coho salmon artificial propagation programs are funded by NMFS through the Mitchell Act, and the upriver bright fall chinook salmon program is funded by the U.S. Army Corps of Engineers as part of the John Day Dam mitigation program.

TABLE 1. HATCHERY AND GENETIC MANAGEMENT PLANS AND LEAD MANAGEMENT AGENCIES.

Hatchery and Genetic Management Plan	Lead Agencies
Little White Salmon/Willard NFH Complex Coho Salmon	USFWS
Little White Salmon/Willard NFH Complex Spring Chinook Salmon	USFWS
Little White Salmon/Willard NFH Complex Upriver Bright Fall Chinook Salmon	USFWS
Carson NFH Spring Chinook Salmon	USFWS
Spring Creek NFH Tule Fall Chinook Salmon	USFWS
Eagle Creek NFH Coho Salmon	USFWS
Eagle Creek NFH Winter Steelhead	USFWS
Warm Springs NFH Warm Springs River Spring Chinook Salmon	USFWS
Touchet River Endemic Summer Steelhead	WDFW/USFWS
Walla Walla River Summer Steelhead—Lyons Ferry Hatchery Stock	WDFW/USFWS

The spring chinook salmon program at the Carson NFH rears and releases Carson stock spring chinook salmon into the Wind River in the state of Washington. This program is funded through the Mitchell Act. Spring Creek NFH rears and releases tule fall chinook salmon from the hatchery located on the mainstem Columbia River above Bonneville Dam. This is funded through the Mitchell Act. These Mitchell Act programs are designed and funded to support Tribal Treaty fisheries and non-treaty commercial and recreational fisheries as mitigation for hydro-system development and habitat loss due to the construction and operation of the Federal mainstem dams on the Columbia River. The proposed artificial propagation programs at Little White Salmon/Willard Complex, Carson NFH, and Spring Creek NFH use hatchery returns for broodstock and are not expected to handle salmonid adults that are listed under the ESA.

The Eagle Creek NFH rears and releases coho salmon, and early-run winter steelhead. These programs use hatchery adults that return annually to the Eagle Creek NFH on Eagle Creek, a major tributary to the Clackamas River in Oregon for broodstock. The coho salmon and winter steelhead artificial propagation programs are funded by NMFS through the Mitchell Act.

The Eagle Creek NFH coho salmon program rears and releases early run coho salmon on station at the Eagle Creek NFH. Coho adults that return to the hatchery from September to November are used for broodstock. Enough broodstock is collected to provide for an on-station release of 500,000 smolts annually to support ocean and mainstem commercial fisheries and to provide recreational fishing harvest opportunities in the lower Clackamas River and Eagle Creek. Additional coho broodstock is collected to provide eyed eggs and fingerlings to the Nez Perce Tribe in Idaho for restoration programs in the Clearwater River basin in Idaho and to provide fingerling coho salmon to the Clatsop County Economic Development Commission for development and operation of terminal fisheries in Youngs Bay, Tongue Point, and Blind Slough, Oregon.

The Eagle Creek NFH winter steelhead program rears and releases non-listed early-run winter steelhead on station at the Eagle Creek NFH to support local recreational fisheries. Broodstock for the program is collected from returning hatchery adults that swim into the hatchery from November through March. These Mitchell Act programs are designed and funded to support Tribal Treaty fisheries and non-treaty commercial and recreational fisheries as mitigation for hydro-system development and habitat loss due to the construction and operation of the federal mainstem dams on the Columbia River. The proposed artificial propagation programs at Eagle Creek NFH have the potential to handle up to two adult salmonids that are listed under the ESA when collecting broodstock.

The Warm Springs spring chinook program uses natural and hatchery produced spring chinook salmon that return to the Warm Springs NFH, located on the Warm Springs River (tributary to the Deschutes River in Oregon). These populations are not listed. This program is funded by the USFWS and is operated cooperatively with the Confederated Tribes of the Warm Springs Reservation of Oregon. During broodstock collection activities and during the operation of the fish ladder and trap at the Warm Springs NFH, listed MCR summer steelhead will be handled and released and hatchery steelhead will be collected and removed to prevent non-endemic summer steelhead from spawning naturally with listed summer steelhead.

The purpose of the Touchet River endemic summer steelhead HGMP is to develop an artificial propagation program that uses natural and hatchery produced summer steelhead broodstock that are endemic to the Touchet River, a tributary to the Walla Walla River in Washington. This program is designed to use the locally-adapted broodstock to replace the non-endemic Lyons Ferry State Fish Hatchery summer steelhead program that currently releases hatchery summer steelhead into the Touchet River. This program will collect broodstock from both listed naturally produced steelhead and hatchery produced endemic stock steelhead returning to an adult fish trap on the Touchet River in Dayton, Washington. The adults collected for broodstock will be spawned and released back into the Touchet River and the eggs transferred to the Lyons Ferry State Fish Hatchery for incubation and rearing. All steelhead smolts will be marked and then acclimated at the Dayton Acclimation Ponds prior to release into the Touchet River or will be released directly into the upper Touchet River basin above the Dayton adult fish trap.

The Walla Walla River summer steelhead program uses the Lyons Ferry Hatchery summer steelhead stock to augment recreational fisheries in the lower mainstem Walla Walla and Touchet rivers. Lyons Ferry Hatchery summer steelhead broodstock is collected from hatchery adults returning to the Lyons Ferry Hatchery on the mainstem Snake River in Washington. Releases of hatchery fish from this program have declined in recent years to address ESA concerns and continue to be evaluated for further reductions or modification.

These two programs are operated by the Washington Department of Fish and Wildlife (WDFW) and funded by the USFWS through the Lower Snake River Compensation Plan as mitigation for lost recreational fisheries resulting from the construction and operation of the four Lower Snake River dams.

Impacts on the listed LCR and MCR ESUs are specified in the HGMPs and are expected to be low. A variety of monitoring and evaluation tasks are specified in the HGMPs to assess the contribution of hatchery releases to fisheries and to assess impacts on naturally spawning populations of LCR chum salmon, LCR chinook salmon, LCR steelhead, and MCR steelhead. The USFWS and WDFW will annually review the hatchery operations, smolt releases, and adult returns within the provisions of the HGMPs. The USFWS and WDFW will conduct, at a minimum of every 5 years, a comprehensive review to evaluate the effectiveness of the HGMPs.

As specified in the July 10, 2000, ESA 4(d) rule for salmon and steelhead (65 FR 42422), NMFS may approve an HGMP if it meets criteria set forth in § 223.203 (b)(5)(i)(A) through (K). Prior to final approval of an HGMP, NMFS must publish notification announcing its availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activities associated with fishery harvest provided that an FMEP has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) rule.

Dated: January 8, 2003.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–696 Filed 1–13–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 021218316–2316–01; I.D. 111402A]

RIN 0648–ZB37

Financial Assistance for Research and Development Projects in Chesapeake Bay to Strengthen, Develop and/or Improve the Stock Conditions of the Chesapeake Bay Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability of funds.

SUMMARY: A total of up to $1,500,000 in Fiscal Year (FY) 2003 funds is anticipated to be made available by Congress through the NOAA Chesapeake Bay Office to assist in carrying out research and development projects that address various aspects of Chesapeake Bay fisheries (commercial and recreational), including coastal and estuarine research, monitoring, modeling, and assessment; fisheries research and stock assessments; data management; and, multiple species interactions through cooperative agreements. About $800,000 of the base amount is available to initiate new projects in FY 2003, as described in this announcement. It is the intent of the NOAA Chesapeake Bay Office to continue with several existing relationships and to make awards through this program for currently funded multiple year projects pending acceptable scientific review. NMFS issues this document to set forth instructions on how to apply for financial assistance, and how NMFS will determine which applications will be selected for funding.

DATES: Applications for funding under this program must be received by 5 p.m. eastern standard time on March 17, 2003. Applications received after that time will not be considered for funding. Applications will not be accepted electronically nor by facsimile machine submission.

ADDRESSES: You can obtain an application package from, and send completed applications to: Derek Orner, National Marine Fisheries Service, NOAA Chesapeake Bay Office, 410 Severn Avenue, Suite 107A, Annapolis, MD 21403. You can also obtain the application package from the Chesapeake Bay Fisheries Research Program Home Page *http://noaa.chesapeakebay.net/fisheries.*

FOR FURTHER INFORMATION CONTACT: Derek Orner, National Marine Fisheries Service, NOAA Chesapeake Bay Office, 410/267–5660; or e-mail: *derek.orner@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

A. *Authority.* The Fish and Wildlife Act of 1956, as amended, at 16 U.S.C. 753a, authorizes the Secretary of Commerce (Secretary), for the purpose of developing adequate, coordinated, cooperative research and training programs for fish and wildlife resources, to continue to enter into cooperative agreements with colleges and universities, with game and fish departments of the several states, and with non-profit organizations relating to cooperative research units. The Secretary of Commerce is authorized under the Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, to provide assistance to, and cooperate with, Federal, State, and public or private agencies and organizations in the development, protection, rearing, and stocking of fisheries, resources thereof, and for fisheries habitat restoration. This announcement is subject to the availability of funding under the Departments of Commerce (DOC), Justice, State, the Judiciary, and Related Agencies Appropriations Act of 2003 which makes funds available to the Secretary.

B. *Catalog of Federal Assistance (CFDA).* The Chesapeake Bay Fisheries Research Program is listed in the ''Catalog of Federal Domestic Assistance'' under number 11.457, entitled Chesapeake Bay Studies.

C. *Program Description.* The Chesapeake Bay Stock Assessment Committee (CBSAC) was established in 1985 to plan and review Baywide resource assessments, coordinate relevant actions of state and Federal agencies, report on fisheries status and trends, and determine, fund and review research projects. The program implements a Baywide plan for the assessment of commercially, recreationally, and selected ecologically important species in the Chesapeake Bay. In 1988, CBSAC developed a Baywide Stock Assessment Plan, in response to provisions in the Chesapeake Bay Agreement of 1987. The Plan identified that key obstacles to assessing Bay stocks was the lack of consistent, Baywide, fishery-dependent and fishery-independent data. Research projects funded since 1988 have focused on developing and improving fishery-independent surveys and catch statistics for key Bay species, such as striped bass, oysters, blue crabs and alosids. Stock assessment research is essential, given the recent declines in harvest and apparent stock condition for many of the important species of the Chesapeake Bay. The Fisheries Steering Committee was established in 2001 to guide the various Chesapeake Bay fisheries' issues including management and research.

II. Funding Priorities

Proposals should exhibit familiarity with related work that is completed or ongoing. Where appropriate, proposals should be multi-disciplinary. Coordinated efforts involving multiple eligible applicants or persons are encouraged. Proposals must address one of the priorities listed here. If the proposal addresses more than one priority, it should list first on the application the priority that most closely reflects the objective of the proposals.

(A) *Stock Assessment Research* - Consideration for funding will be given to applications that address the following stock assessment research and management priorities for the Chesapeake Bay. These priorities are not listed in any particular order:

(1) Assessments of the abundance, productivity, distribution, and exploitation patterns of important Chesapeake Bay finfish and shellfish resources. Proposals may include research on life history characteristics, larval dynamics, stock-recruitment relationships, and schedules of vital rates. Descriptions of stock structure, demographics and spatial distribution would also be appropriate. It is anticipated that proposals will combine analyses of existing fishery-dependent and fishery-independent data.

(2) Development and/or implementation of a program to provide a reliable data base for estimating the impact of recreational fishing on living marine resources in Chesapeake Bay. Projects should:

a. Conduct a review of any work previously conducted on the development of methods for conducting a Baywide recreational survey;

b. Implement on a Baywide scale based on earlier work (if applicable);

c. Provide reliable estimates of recreational catch, fishing effort, catch rates, size composition, and sex ratios

for all components of the recreational fishery.

(3) Blue Crab Stock Assessment Analyses

a. Stock assessment of blue crab in Chesapeake Bay has been hampered by inadequate fishery data. Because of this shortcoming, previous assessments/ analyses were conducted using less data intensive techniques. Based on activities in part funded through this program in recent years, there is a need and a capability to more formally assess the status of this important resource. Proposals addressing this priority should expect for the final report to undergo a stock assessment review similar to that utilized by the NMFS - Northeast Science Center's SAW/SARC process.

b. Managing a fishery as complicated as the blue crab is difficult and with the blue crab maintaining its dominance in Chesapeake Bay fisheries, it is critical to understand/determine whether management approaches introduced by the Bay states are beneficial to the fishery or if there are potentially other alternatives. There is also a need to compare the management approaches across the states to explore the bi-state management of the resource.

c. Design and develop an integrated Baywide blue crab mark and recapture study that will provide information on growth, natural mortality, fishing mortality, size selectivity, catchability, reporting rates and the distribution of harvest among the fisheries. Results should be informative with respect to the reproductive frequency of female crabs, and longevity.

(4) Improvement or implementation of the collection of fishery-dependent data within Chesapeake Bay. Projects can involve either the commercial and/or recreational components of the fishery. Projects should focus on collecting biological data (size, sex, age, diet), and catch and effort data from Baywide harvests of significant finfish and shellfish fisheries to provide accurate, statistically representative information on the spatial and temporal characteristics of the harvest. Proposals may involve designs for port-sampling of landings, or on-board analysis of the catch, analysis of intercepts and telephone surveys. Proposals that document information on by-catch and discard mortality would be relevant and are encouraged.

The proposals should recognize current efforts to collect biological data from Bay fisheries and attempt to define the optimal, regional (Maryland, Potomac River Fisheries Commission, and Virginia jurisdictions) sampling program.

(5) Improvement and/or implementation of Chesapeake Bay fisheries database tools (including oracle database systems and web-based public access) for the various fishery-dependent and fishery-independent data currently and historically available in Chesapeake Bay. This activity should not be limited to only gaining access to current or historically available data to make it more accessible, but also to mining this data to develop indices of relative abundance where applicable. Proposals are encouraged to coordinate with the Atlantic Coastal Cooperative Statistics Program (ACCSP) and/or the Northeast Area Monitoring Assessment Program (NEAMAP) activities.

(B) *Multispecies Management and Research* - The Chesapeake Bay is a complex and dynamic ecosystem that supports many fisheries that are economically important both regionally and nationally. To date, these resources have been managed on a single species basis. While the single species approach has served us well, the existence of both biological and technical (by-catch) interactions in most Chesapeake Bay fisheries point to the need to move toward a wider, multispecies perspective. This viewpoint was wholeheartedly endorsed at a workshop of regional, national and international scientists held to address the potential utility of multispecies approaches to fisheries management in the Chesapeake Bay (STAC Publication 98–002, *www.chesapeake.org)*. The ultimate objective of this research and monitoring is to lead to the development of an ecosystem plan for Chesapeake Bay fisheries, within which the rational exploitation of individual species can be determined.

Consideration for funding will be given to applications that address the following multispecies management and research priorities for the Chesapeake Bay. Priorities are not listed in any implied order:

(1) Fishery-independent Surveys. Plan, develop and conduct coordinated Baywide surveys to regularly estimate species abundances, trends and biological characteristics (e.g., age/size structure, recruitments, growth and mortality rates, food habitats) for economically and ecologically important key species. Proposals within this task should:

a. Review and assess existing fishery independent sampling programs conducted by regional agencies to evaluate their potential applicability to the Chesapeake Bay. This may include evaluation of the use of fixed and random sampling protocols, with or without stratification, and the sampling characteristics of different gear types.

b. Develop and initiate a Baywide, coordinated, fishery-independent survey that may include multiple gear, such as benthic and midwater trawling, and hydroacoustics to characterize the status and trends in the abundance, distribution and characteristics of key Chesapeake Bay finfish and shellfish.

(2) Retrospective Analyzes. Document and quantify multispecies interactions among economically and ecologically important finfish and shellfish within the Chesapeake Bay. The proposed work should lead to the identification of the 'strong' interactions within the Chesapeake Bay fisheries system. Work may involve analysis of commercial and recreational catch and effort data, the analysis of the patterns of diets and energy flows within the fisheries system, or multivariate analyses of abundance relationships within the fisheries system and their relationship to environmental and habitat characteristics.

(3) Multispecies Assessment / Ecosystem Modeling. Apply and assess alternative multispecies fisheries models to the Chesapeake Bay fisheries systems. The submitted proposal should detail the development of a multispecies or ecosystem model focusing on core Chesapeake Bay species. Examples of possible approaches include, but are not limited to: multispecies biomass dynamic, multispecies yield per recruit, multispecies virtual population analysis, multispecies bioenergetics, spatial-physical predator-prey, trophic production and ecosystem simulation models. Model approaches should seek to predict constraints and patterns in the fisheries production of the Chesapeake Bay system.

(4) In an ecosystem-based approach to fisheries management, it is important to understand and develop reference points related to the total removals of the system to fully appreciate the impact those fishery removals have on food webs. All sources of removals to quantify the level of total removals to the Chesapeake Bay system should be identified and thresholds and sustainable levels of removals should be identified. This threshold should be an upper limit on the biomass of fish and shellfish that can be removed from Chesapeake Bay annually. Sustainable or target levels of removals should also be identified.

(C) *Fisheries Ecosystem Plan (FEP) Research and Implementation* - The NOAA Chesapeake Bay Office has initiated development of an FEP for Chesapeake Bay. An FEP is an umbrella document containing information on the

structure and function of the ecosystem in which fishing activities occur, so that managers can be aware of the effects their decisions have on the ecosystem, and the effects other components of the ecosystem may have on fisheries. Development of FEPs for each major ecosystem was recommended by the NMFS-appointed Ecosystem Principles Advisory Panel which was formed under a mandate by the Sustainable Fisheries Act of 1996. (See the Panel's Report to Congress at: *http://www.nmfs.noaa.gov/sfa/EPAPrpt.pdf.*) The initial FEP will reflect the existing state of knowledge about the Chesapeake Bay ecosystem. Effective FEP implementation and ultimate success of the Bay's FEP initiative will require new research to characterize critical components of the ecosystem. The total value of the proposals selected for funding under this priority cannot exceed $100,000 of the base amount. Priorities are not listed in any particular order.

(1) Design and implementation of surveys to identify habitats, spawning areas, and feeding grounds for significant Chesapeake Bay species.

(2) Promote a higher level of understanding of the relationships between fisheries, the ecosystem, society and the environment. Proposals may include:

a. Improving the understanding of the 'multiple pathways' that can affect managed species and members of their significant food webs. Pathways might include (but are not limited to): the effects of habitat degradation and restoration, influences of the spatial arrangement of habitats, effects of environmental fluctuations or climate change, and the impact of changes in predator-prey relationships.

b. Characterizing uncertainty in key parameters used to support fisheries management decisions. This should include the ability to show the risks associated with the estimated uncertainty.

c. Describing the social and economic drivers of both commercial and recreational sectors of the Chesapeake Bay fishing industry.

d. Determining the relevance of existing, or proposed, indicators of ecosystem health (especially to meet the objective of linking fisheries and human health to the supporting Chesapeake Bay ecosystem).

e. Development of a data management system for linking fisheries and habitat management in Chesapeake Bay. This integrated data management system should link information on habitat requirements, significant food webs, and management activities.

III. Funding

A. *Funding Availability.* This document describes how interested persons can apply for funding under the Chesapeake Bay Fisheries Research Program, and how funding decisions will be made.

This solicitation announces that funding of up to $1,500,000 may be available through the Chesapeake Bay Fisheries Research Program. It is the intent of the NOAA Chesapeake Bay Office to continue with several existing relationships and to make awards through this program for projects pending successful progress reports and review. Applicants are hereby given notice that funds have not yet been appropriated for this program. This announcement does not guarantee that sufficient funds will be available to make awards for all selected applications submitted under this program. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and the NOAA representatives.

The Department of Commerce Pre-Award Notification of Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published October 30, 2002 (67 FR 66109), is applicable to this solicitation.

B. *Duration and Terms of Funding.* Under this solicitation, NCBO will fund Chesapeake Bay Fisheries Research Projects as 12 month cooperative agreements. The cooperative agreement has been determined to be the appropriate funding instrument because of the substantial involvement of NCBO in:

1. Developing program research priorities;

2. Evaluating the performance of the program for effectiveness in meeting regional goals for Chesapeake Bay stock assessments;

3. Monitoring the progress of each funded project;

4. Holding periodic workshops with investigators; and

5. Working with recipients to prepare annual reports summarizing current accomplishments of the Chesapeake Bay Stock Assessment Committee.

Proposals may be considered for continuation beyond the first project and budget period. Proposals may be submitted for up to 3 years. However, funds will be made available for only a 12–month award period and any continuation of the award period will be subject to an approved scope of work, satisfactory progress, a panel review, and available funding to continue the award. No assurances for a funding continuation exists; funding will be at the complete discretion of NOAA.

First-year proposals must include a full description of the activities and budget for the first year as described in this announcement, and should include a summary description of the proposed work for each subsequent year and an estimated budget by line item (without supporting budget detail pages) for review and analysis. If selected for funding, the applicant will be required to submit a full proposal for the second year by the deadline announced in the following year's competitive cycle. Proposals will be evaluated through a review panel process, but will not be subject to competition with new proposals.

C. *Cost-sharing Requirements.* Applications must reflect the total budget necessary to accomplish the project, including contributions and/or donations. Cost-sharing is not required by the Chesapeake Bay Fisheries Research Program but is strongly encouraged. Federal funds may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the final selection process.

IV. How to Apply

A. *Eligible Applicants.* Eligible applicants are institutions of higher education, hospitals, other nonprofits, commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, international organizations, state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this notice.

The Department of Commerce National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

B. *Project Start Dates.* Projects should not be scheduled to begin before May 1, 2003.

C. *Format.* 1. Applications for project funding must be complete and must follow the format described in this document.

Applicants must identify the specific research priority or priorities to which they are responding. If the proposal addresses more than one priority, it should list first on the application the priority that most closely reflects the objective of the proposals. For applications containing more than one project, each project component must be identified individually using the format specified in this section. If an application is not in response to a priority, it should so state. Applicants should not assume prior knowledge on the part of NCBO as to the relative merits of the project described in the application.

Applications must not be bound and must be one-sided. Applicants are required to submit 1 signed original and 2 copies of the full proposal. All incomplete applications will be returned to the applicant.

2. Applications must be submitted in the following format:

(a) *Cover sheet:* An applicant must use OMB Standard Form 424 (revised 7/97) as the cover sheet for each project. Applicants may obtain copies of these forms from the NOAA Chesapeake Bay Office (see **ADDRESSES**) or from the NOAA Grants Management Division website, *http://www.rdc.noaa.gov/grants/.*

(b) *SF–424A - Budget form*: All applicants must use a Standard Budget Form (SF–424A) required for all Federal cooperative agreements.

(c) *Form CD–511.* All applicants must submit a CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying''.

(d) *SF424B.* All applicants must submit a SF–424B, ''Assurances of Non-Construction Programs''.

(e) CD–436 ''Applicant for Funding Assistance''. Must be submitted with applications from non-profit organizations, Joint Ventures, Corporations, Partnerships, and Sole Proprietorships. Officials of state and local governments and officials of accredited colleges and universities are exempt.

(f) *Project summary (1–page limit):* It is recommended that each proposal contain a summary of not more than one page that provides the following:

(1) Project title.

(2) Project status (new vs. continuation).

(3) Project duration (beginning and ending dates).

(4) Name, address, e-mail, and telephone number of applicant.

(5) Principal Investigator(s) (PI).

(6) Project objectives.

(7) Summary of work to be performed.

(8) Total Federal funds requested.

(9) Cost-sharing to be provided from non-Federal sources, if any. Specify whether contributions are project-related cash or in-kind.

(10) Total project cost.

(g) *Project description* - (including results from prior support): Each project must be completely and accurately described. The main body of the proposal should be a clear statement of the work to be undertaken and should include: specific objectives and performance measures for the period of the proposed work and the expected significance; relation to longer-term goals of the PI's project; and relation to other work planned, anticipated, or underway under Federal Assistance. The project description must not exceed 15 pages in length. Visual materials, including charts, graphs, maps, photographs and other pictorial presentations are not included in the 15–page limitation. If an application is awarded, NCBO will make all portions of the project description available to the public for review; therefore, NCBO cannot guarantee the confidentiality of any information submitted as part of any project, nor will NCBO accept for consideration any project requesting confidentiality of any part of the project.

Each project must be described as follows:

(1) *Identification of problem(s):* Describe the specific problem or priority to be addressed (see section II above).

(2) *Project objectives:* The project description must identify the following three project objectives: (1) Identify the specific priority listed earlier in the solicitation to which the proposed projects respond, if any. (2) Identify the problem/opportunity you intend to address and describe its significance to the fishing community. (3) State what you expect the project to accomplish.

If you are applying to continue a project previously funded under the Chesapeake Bay Fisheries Research Program, describe in detail your progress to date and explain why you need additional funding.

Objectives should be:

(a) Simple and easily understandable.

(b) As specific and quantitative as possible.

(c) Clear with respect to the ''what and when'' and should avoid the ''how and why.

(d) Attainable within the time, money, and human resources available.

(e) Use action verbs that are accomplishment oriented.

(f)Identify specific performance measures.

(3) *Project narrative:* The project narrative is the scientific or technical action plan of activities that are to be accomplished during each budget period of the project. This description must include the specific methodologies, by project job activity, proposed for accomplishing the proposal's objective(s).

Investigators submitting proposals in response to this announcement are strongly encouraged to develop inter-institutional, inter-disciplinary research teams in the form of single, integrated proposals or as individual proposals that are clearly linked together. Such collaborative efforts will be factored into the final funding decision.

Each project narrative must include the following information:

(a) The applicant's name.

(b) The inclusive dates of the budget period covered under the project narrative.

(c) The title of the proposal.

(d) The scientific or technical objectives and procedures that are to be accomplished during the budget period. A detailed set of objectives and procedures to answer who, what,

how, when, and where. The procedures must be of sufficient detail to enable competent workers to be able to follow them and to complete scheduled activities.

(e) Location of the work.

(f) A list of all project personnel and their responsibilities.

(g) A milestone table that summarizes the procedures that are to be attained in each project month covered by the project narrative. Table format should follow sequential month rather than calendar month (i.e. Project period Month 1, Month 2... versus October, November ...)

(4) *Benefits or results expected:* Identify and document the results or benefits to be derived from the proposed activities.

(5) *Need for Government financial assistance:* Demonstrate the need for assistance. Any appropriate database to substantiate or reinforce the need for the project should be included. Explain why other funding sources cannot fund all the proposed work. List all other sources of funding that are or have been sought for the project.

(6) *Federal, state and local government activities:* List any programs (Federal, state, or local government or activities, including Sea Grant, state

Coastal Zone Management Programs, NOAA Oyster Disease Research Program, the state/Federal Chesapeake Bay Program, etc.) this project would affect and describe the relationship between the project and those plans or activities.

(7) *Project management:* Describe how the project will be organized and managed. Include resumes of principal investigators. List all persons directly employed by the applicant who will be involved with the project. If a consultant and/or subcontractor is selected prior to application submission, include the name and qualifications of the consultant and/or subcontractor and the process used for selection.

(8) *Results from prior Chesapeake Bay Fisheries Research support:* If any PI or co-PI identified on the project has received Chesapeake Bay Fisheries Research or Chesapeake Bay Stock Assessment Committee (CBSAC) support in the past 5 years, information on the prior award(s) is required. The following information must be provided:

(a) The NOAA award number, amount and period of support;

(b) The title of the project;

(c) Summary of the results of the completed work, including, for a research project, any contribution to the development of human resources in science/biology;

(d) Publications resulting from the award (Reprints may be submitted, and are requested, for documentation if applicable);

(e) Brief description of available data, samples, physical collections and other related research products not described elsewhere; and

(f) If the proposal is for renewed support, a description of the relation of the completed work to the proposed work.

(9) *Monitoring of project performance:* Identify who will participate in monitoring the project.

(10) *Project impacts:* Describe how these products or services will be made available to the fisheries and management communities.

(11) *Education and outreach:* How will this project provide a focused and effective education and outreach strategy regarding NOAA's mission to protect the Nations' natural resources?

(12) *Evaluation of project:* The applicant is required to provide an evaluation of project accomplishments and progress towards the project objectives and performance measures at the end of each budget period and in the final report. The application must describe the methodology or procedures to be followed to determine technical feasibility, or to quantify the results of the project in promoting increased production, product quality and safety, management effectiveness, or other measurable factors.

(13) *Total project costs and budget narrative:* Total project costs are the amount of funds required to accomplish what is proposed in the Project Description, and includes contributions and donations. A standard budget form (SF–424A) is available from the offices listed and on the internet (see **ADDRESSES**). NMFS will not consider fees or profits as allowable costs for grantees.

All costs must be shown in a detailed budget narrative. Explain the calculations and provide a narrative to support specific items or activities, such as personnel/salaries, fringe benefits, travel, equipment, supplies, contract costs, and indirect costs. Additional cost detail may be required prior to a final analysis of overall cost allowability, allocability, and reasonableness. The date, period covered, and findings for the most recent financial audit performed, as well as the name of the audit firm, the contact person, and phone number and address, must be also provided.

(h) *Supporting documentation:* Provide any required documents and any additional information necessary or useful to the description of the project. The amount of information given in this section will depend on the type of project proposed, but should be no more than 20 pages. The applicant should present any information that would emphasize the value of the project in terms of the significance of the problems addressed. Without such information, the merits of the project may not be fully understood, or the value of the project may be underestimated. The absence of adequate supporting documentation may cause reviewers to question assertions made in describing the project and may result in lower ranking of the project. Information presented in this section should be clearly referenced in the project description.

IV. Review Process, Criteria and Selection Procedures

A. *Initial Evaluation of Applications.* Applications will be reviewed by NCBO to assure that they meet all requirements of this announcement, including eligibility and relevance to the Chesapeake Bay Fisheries Research Program. Proposals that do not support the technical and management priorities of the Chesapeake Bay, as defined in section II. above will not be considered for funding.

B. *Consultation with Experts in the Field of Stock Assessment and Fisheries Research.* For applications meeting the requirements of this solicitation, NCBO will conduct an individual technical evaluation (via mail/electronic mail) of each project. This review normally will involve experts from both NOAA and non-NOAA organizations. All comments submitted to NCBO will be taken into consideration in the evaluation of projects. Reviewers will be asked to review independently and to provide a score and comments based on the following four criteria (total of 50 possible points):

1. Problem description and conceptual approach for resolution, especially the applicant's comprehension of the problem(s), familiarity with related work that is completed or ongoing, and the overall concept proposed to resolve the problem(s) (15 points).

2. Soundness of project design/technical approach, especially whether the applicant provided sufficient information to technically evaluate the project and, if so, the strengths and weaknesses of the technical design proposed for problem resolution (20 points).

3. Project management and experience and qualifications of personnel, including organization and management of the project, and the personnel experience and qualifications (5 points).

4. Justification and allocation of the budget in terms of the work to be performed (10 points).

C. *Review Panel.* NCBO will convene a review panel consisting of at least three regional experts (both NOAA and non-NOAA panelists) in the scientific and management aspects of fisheries research.

1. Projects considered for continuation. The review panel will collectively discuss existing proposals that were awarded with the possibility of continuation. Review panel members will take into consideration the technical reviewer's comments, the successful completion of the project within the previously defined project period, whether the goals of the projects were achieved, and the cost effectiveness of the project. Review panel members will then independently determine whether the projects should be considered for continuation. No consensus advice will be given by the review panel members.

2. New proposals. The review panel will then collectively discuss new proposals as a panel, incorporating the evaluation provided by the technical

reviewers. The panel members may then take into account the following: (a) diversity of geographic location, (b) diversity of applicants, (c) proposed budget and (d) Chesapeake Bay management priorities. Each review panel member will then provide a numerical ranking of the submitted new proposals along with suggestions for modifications and/or improvements (i.e., budget, personnel, technical approach, etc.). No consensus advice will be given by the review panel members.

D. *Funding Decision.* After applications have been evaluated and ranked numerically by the review panel, the Director of the NCBO, in consultation with Program Staff, will determine the projects to be recommended for funding based upon the technical evaluations and panel review comments, and determine the amount of funds available for the program. Numeric ranking will be the primary consideration for deciding which of the proposals will be selected for funding. In making the final selections, NCBO may consider continuation projects, matching leverage, costs, geographical distribution, inter-jurisdictional and inter-institutional collaboration and duplication with other federally funded projects. Accordingly, numerical ranking is not the sole factor in deciding which proposals will be selected for funding. The Director of the NCBO will prepare a written justification for any recommendations for funding that fall outside the ranking order, or for any cost adjustments. The exact amount of funds awarded to each project will be determined in pre-award negotiations among the applicant, the Grants Office, and NCBO staff. Potential grantees should not initiate projects in expectation of Federal funding until an award document signed by an authorized NOAA official has been received.

E. Applications not selected for funding will be held in the Program Office for a period of at least 12 months and then destroyed.

V. Administrative Requirements

A. *Obligations of the Applicant*

Periodic workshops—Investigators will be expected to prepare for and attend one or two workshops with other Fisheries Research Program researchers to encourage interdisciplinary dialogue and collaboration.

B. *Other Requirements*

1. *Indirect Cost Rate.* The budget may include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal government. Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which the Department of Commerce will reimburse the recipient shall be the lesser of the line item amount for the Federal share of indirect costs contained in the approved budget of the award, or the Federal share of the total allocable indirect costs of the award based on the indirect cost rate approved by an oversight or cognizant Federal agency and current at the time the cost was incurred, provided the rate is approved on or before the award end date. However, the Federal share of the indirect costs may not exceed 25 percent of the total proposed direct costs for this Program. Applicants with indirect costs above 25 percent may use the amount above the 25 percent level as cost sharing. If the applicant does not have a current negotiated rate and plans to seek reimbursement for indirect costs, documentation necessary to establish a rate must be submitted within 90 days of receiving an award.

2. *Pre-award Notification Requirements.* The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published October 30, 2002 (67 FR 66109), is applicable to this solicitation.

3. *Financial Management Certifications/preaward Accounting Survey*—Successful applicants, at the discretion of the NOAA Grants Officer, may be required to have their financial management systems certified by an independent public accountant as being in compliance with Federal standards specified in the applicable Office of Management and Budget (OMB) Circulars prior to execution of the award. Any first-time applicant for Federal grant funds may be subject to a preaward accounting survey by the DOC specified in the applicable OMB Circulars/Code of Federal Regulations prior to execution of the award.

Classification

This action has been determined to be ''not significant'' for purposes of Executive Order 12866. Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Pursuant to Section 553(a)(2) of the Administrative Procedure Act, prior notice and an opportunity for public comment are not required for this notification concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

This document contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms (SF) 424, 424A, and 424B have been approved by OMB under their respective control numbers 0348–0043, 0348–0044, and 0348–0040. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Dated: January 7, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 03–703 Filed 1–13–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010603B]

Receipt of an Application for Direct Take Permit (1412)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

ACTION: Notice of availability for public comment.

SUMMARY: NMFS has received an application for a direct take permit (Permit 1412) from the Confederated Tribes of the Colville Reservation (Colville Tribes) pursuant to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, the Colville Tribes have prepared a Conservation Plan, in the form of a Hatchery and Genetic Management Plan (HGMP), designed to minimize and mitigate any such take of endangered or threatened species. The Permit application is for the direct and incidental take of ESA-listed adult and juvenile salmonids associated with carrying out the hatchery program for endangered Upper Columbia River steelhead in the Okanogan River and its tributaries in the state of Washington. The duration of the proposed Permit is 5 years. NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on these documents. All

comments received will become part of the public record and will be available for review pursuant to the ESA.

DATES: Written comments from interested parties on the Permit application and HGMP must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 pm Pacific daylight time on February 13, 2003.

ADDRESSES: Written comments on the application and HMGP should be sent to Kristine Petersen, Sustainable Fisheries Division, F/NWR2, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232. Comments may also be sent via fax to 503/872–2737. Comments will not be accepted if submitted via e-mail or the Internet. Requests for copies of the permit application and Conservation Plan should be directed to the Sustainable Fisheries Division, F/NWR2, 525 NE Oregon Street, Suite 510, Portland, OR 97232. The documents are also available on the Internet at *http://www.nwr.noaa.gov/*. Comments received will also be available for public inspection, by appointment, during normal business hours by calling 503/230–5409.

FOR FURTHER INFORMATION CONTACT: Kristine Petersen, Portland, OR (ph: 503/230–5409, fax: 503/872–2737, e-mail: Kristine.Petersen@noaa.gov).

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take'' is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances, to take listed species for scientific purposes or to enhance the propagation or survival of the species under section 10(a)(1)(A) of the ESA. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Species Covered in This Notice

The following evolutionarily significant unit (ESU) is included in the HGMP and Permit application:

Steelhead (*Oncorhynchus mykiss*): endangered, naturally produced and artificially propagated Upper Columbia River (UCR).

The Upper Columbia River Basin steelhead ESU was listed as endangered on August 18, 1997 (62 FR 43937). Included in the listing decision was the determination that the Wells Hatchery stock was part of the ESU and essential for recovery efforts. This conclusion is primarily based on very low estimates of the recruits per spawner ratio, which indicate that productivity of naturally spawning steelhead in this ESU is far below the replacement rate.

On October 23, 2002, the Colville Tribes submitted an application to NMFS for an ESA section 10(a)(1)(A) permit for the take of ESA-listed anadromous fish species associated with operation of hatchery programs producing hatchery steelhead for release into Omak Creek, a third order tributary of the Columbia River, in 2004 to 2009. The proposed programs produce steelhead of native stock to enhance local naturally spawning salmon populations.

Hatchery and Genetics Management Plan

The HGMP prepared by the Colville Tribes describes measures designed to monitor, minimize, and mitigate the take of ESA-listed anadromous steelhead and the incidental takes of ESA-listed salmon associated with the following steelhead hatchery program that is proposed to be implemented from 2003 through 2009:

Artificial propagation of steelhead is intended to recover and enhance the natural steelhead population in Omak Creek and the Okanogan River Basin. The Colville Tribes propose to collect up to 16 adult steelhead for broodstock from Omak Creek. Holding and spawning of broodstock would be conducted at the Colville Tribal Trout Hatchery. Steelhead eggs would be incubated and initial rearing would occur at the Colville Tribal Trout Hatchery. Steelhead smolts would be raised to a size range of 10 to 15 fish per pound and released into Omak Creek using a tank truck. The proposed steelhead program goal is approximately 40,000 smolts released in April or May.

Mortalities of ESA-listed fish associated with the steelhead hatchery programs are requested at levels specified in the Permit application. The Colville Tribes are proposing to limit broodstock collection, and juvenile fish production and release methods applied at the hatcheries such that the direct impacts on ESA-listed salmonids will be minimized.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of section 10(a)(1)(A) of the ESA. If it is determined that the requirements are met, a permit will be issued to the Colville Tribes for the steelhead enhancement program in the Okanogan River Basin. NMFS will publish a record of its final action in the **Federal Register**.

Dated: January 8, 2003.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–697 Filed 1–13–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 02–84–LNG, 02–89–LNG, et al.]

El Paso Merchant Energy, L.P. (Formerly El Paso Merchant Energy-Gas, L.P.), Distrigas LLC, et al.; Orders Granting Authority to import and Export Natural Gas Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during December 2002, it issued Orders granting authority to import and export natural gas, including liquefied natural gas. These Orders are summarized in the attached appendix and may be found on the FE Web Site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on January 7, 2003.

Clifford P. Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

Appendix

ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS
[DOE/FE Authority]

Order No.	Date Issued	Import/Exporter FE Docket No.	Import Volume	Export Volume	Comments
1832	12–02–02	El Paso Merchant Energy L.P., (Formerly El Paso Merchant Energy-Gas, L.P.), 02–84–LNG.	200 Bcf	.....	Import LNG from various international sources beginning on December 31, 2002, and extending through December 30, 2004.
1833	12–03–02	Distrigas LLC, 02–89–LNG	100 Bcf	.....	Import LNG from various international sources beginning on December 9, 2002, and extending through December 8, 2004.
1834	12–09–02	KeySpan-Ravenswood, L.L.C., 02–86–NG.	44 Bcf		Import and export a combined total of natural gas from and to Canada, beginning on June 1, 2003, and extending through May 31, 2005.
1835	12–09–02	The Berkshire Gas Company, 02–88–NG.	1 Bcf		Import and export a combined total of natural gas from to Canada, beginning on January 15, 2002, and extending through January 14, 2004.
1836	12–10–02	Northern Utilities, Inc., 02–90–NG	3 Bcf		Import and export a combined total of natural gas from and to Canada, beginning on January 15, 2003, and extending through January 14, 2005.
1837	12–19–02	Engage Energy Canada, L.P., 02–82–LNG.	1,000 Bcf		Import and export a combined total of natural gas, including liquefied natural gas, from and to Canada, beginning on January 1, 2003, and extending through December 31, 2004.
1838	12–30–02	PPG Canada Inc., 02–99–NG	.....	8,4 Bcf	Export natural gas to Canada, beginning on January 1, 2003, and extending through December 31, 2004.

[FR Doc. 03–683 Filed 1–13–03; 8:45 am]
BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

[FE Docket No. 02–96–NG]

Office of Fossil Energy; Northern Utilities, Inc.; Order Granting Long-Term Authority to Import Natural Gas from Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy (FE) gives notice that on January 7, 2003, it issued DOE/FE Order No. 1839 granting Northern Utilities, Inc. (Northern Utilities) authority to import up to 62,748 Mcf per day of natural gas from Canada, beginning on January 15, 2003, and extending through April 1, 2005. The natural gas will be purchased from ENCANA Corporation to serve its customers in Maine and New Hampshire.

This Order may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0334, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 7, 2003.

Clifford Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

[FR Doc. 03–681 Filed 1–13–03; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Raymond-Cosmopolis Transmission Line Rebuild Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of floodplain and wetlands involvement.

SUMMARY: This notice announces BPA's proposal to rebuild the Raymond-Cosmopolis 115-kilovolt transmission line in western Washington State. The proposed rebuild is needed to increase transmission line capacity and to address safety and reliability concerns because the transmission line is old, physically worn, and structurally unsound in some areas. The 18.3-mile-long transmission line traverses wetlands and floodplains located in both Pacific and Grays Harbor Counties.

DATES: Comments are due to the address below no later than January 29, 2003.

ADDRESSES: Submit comments to Communications, Bonneville Power Administration—KC–7, P.O. Box 12999, Portland, Oregon 97212. Internet address: *comment@bpa.gov.*

FOR FURTHER INFORMATION, CONTACT: Kimberly St.Hilaire—KEC–4, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number 503–230–5361, fax number 503–230–5699.

SUPPLEMENTARY INFORMATION: In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements, BPA will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands. The assessment will be included in the environmental assessment being prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. A floodplain statement of findings will be included in any finding of no significant impact that may be issued following the completion of the environmental assessment.

Floodplains. Six existing structures are located within the 100-year floodplains of three waterways within the project area, as depicted on Federal Emergency Management Administration (FEMA) maps. Impacts to floodplains would include the removal of existing structures and construction of proposed structures within floodplains, road construction, and road improvements. During the design phase, efforts were made to avoid impacts to floodplains

and to minimize them by moving structures and roads out of floodplains where possible.

Two structures are located within the floodplain of Lower Salmon Creek. These existing structures would be removed without excavation (cut at ground level) and replaced within the floodplain. The holes that would be augered to imbed the tubular steel structures would be several feet larger in diameter than the base of the structure, which would be less than 70 inches in diameter. No road construction or road improvements are proposed with the Lower Salmon Creek floodplain.

Within the North River floodplain, one existing structure is on the floodplain boundary and one area of roadwork is proposed within the floodplain. Structure 121, on the floodplain boundary, would be moved 10 feet, placing it just outside the floodplain. Road improvements would be made within the southern portion of the floodplain (north of Structure 120). Roadwork would extend up a slope at the edge of the floodplain. The area where roadwork would be done is separated from the main floodplain area by a county road (North River Road). Road improvements would include rocking and widening approximately 250 feet of the existing road, and also installing a culvert and gate at the edge of the existing county road.

Within the Little North River floodplain, three existing structures are located within the floodplain or on the floodplain boundary and one area of roadwork is proposed. Structure 136, adjacent to an existing access road, would be removed and the proposed structure would be constructed at the edge of the floodplain boundary. Roadwork is proposed just south of Structure 136. Roadwork would consist of improvements to the existing road to provide improved access to this structure. The road would be rocked and widened. Structure 142 is within the floodplain and would be replaced within the floodplain within several feet of the existing structure. Structure 143 is at the edge of the floodplain on FEMA maps, but because it is approximately 100 feet in elevation higher than the elevation of the Little North River, it is very unlikely that it would be inundated during a 100-year flood event. This structure will be moved to the north, placing it outside but very near the floodplain boundary.

Wetlands. Wetlands determination and delineation work was conducted within the project area in August of 2002. This investigation identified numerous wetland areas within or crossing the transmission line right-of-way. Nine existing structures are within wetlands, but only two of the proposed structures would be in wetlands. Other existing and proposed structures are near wetlands, but direct impacts to wetlands would be avoided where possible by restricting access to these areas during construction.

During the design phase, the transmission line was realigned outside the existing right-of-ways in two areas to avoid wetlands. Structures 34 and 35 would be moved to the west to avoid a large wetland area around Structure 35. Structures 91, 92, 93, and 94 would be moved to the west because existing Structures 92 and 93 are within the wetlands associated with Joe Creek and no access exists to these structures.

During the design phase of the project, impacts to wetlands were avoided where possible, by relocating individual structures and roads in adjacent uplands within the existing right-of-way. In some areas it was not possible to relocate structures into adjacent uplands because the wetlands are too extensive to avoid them. In other areas, roads or approaches would traverse wetlands because there is no other route that avoids wetlands. Where wetlands could not be avoided by roads, efforts were made to minimize the impacts to wetlands by locating as much of the road as possible in adjacent upland or by proposing to construct temporary roads.

The impact on wetlands from removing nine existing structures would be low. Removal of existing structures could cause minor and temporary damage to wetland vegetation and soils. Structures in wetlands would be cut at the base with no soil disturbance and lifted or dragged out of the wetland area. Some structures would be left in place if landowners agree.

Impacts on wetlands from installing new structures in wetlands are expected to be moderate and mostly temporary. Proposed Structures 28 and 72 would be erected in wetlands; both would be suspension structures, the type of structures that require the smallest disturbance area. Permanent disturbance of wetlands would be limited to the portions of wetlands that are excavated or filled to embed the structure base.

Impacts to wetlands from constructing access roads are limited to a few areas where there are no alternatives because there are no uplands adjacent to the structures. Approaches (short spur roads) within wetlands would be constructed to access Structures 28 and 72. Between Structures 15 and 16, a stream and associated wetland area would be crossed by creating a ford (rocky area). Structures 47 and 48 can only be accessed by traversing a large emergent wetland. Impacts to wetlands would be minimized by creating a temporary access road on geotextile fabric, and then removed and restored once construction is complete.

Construction of structures and roads near wetlands could temporarily disturb wetland areas, with the size of disturbance area dependent on the type of structure. Efforts would be made to avoid construction activities within wetlands and to minimize impacts by restricting work while wetland soils are not dry.

Maps and further information are available from BPA at the address above.

Issued in Portland, Oregon, on January 6, 2003.

Thomas C. McKinney,

NEPA Compliance Officer.

[FR Doc. 03–682 Filed 1–13–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–228–000]

Alliance Pipeline L.P.; Notice of Proposed Change in FERC Gas Tariff

January 8, 2003.

Take notice that on December 31, 2002, Alliance Pipeline L.P. (Alliance) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 253, proposed to become effective February 1, 2003.

By its filing, Alliance proposes to amend the General Terms and Conditions (GTC) of its FERC Gas Tariff to permit Alliance to terminate a temporary release of capacity, upon 30-days written notice to the replacement shipper, where (i) Alliance has terminated the releasing shipper's Firm Transportation Agreement or Master Capacity Release Agreement in accordance with GTC section 8 (Default and Termination); and (ii) the rate stated in the replacement shipper's applicable Capacity Release Schedule is less than the rate that the releasing shipper was obligated to pay Alliance.

Alliance further proposes that a replacement shipper may avoid termination of the temporary release if, prior to the end of the 30-day notice period, the replacement shipper agrees that, beginning the first day after the end of the 30-day notice period, it will pay, for the remainder of the term of the release, either the rate the former

releasing shipper was obligated to pay Alliance, the maximum applicable Recourse Reservation and Usage Charges as stated in the tariff for the applicable service, or a rate mutually agreed upon by Alliance and the Shipper.

Alliance states that copies of its filing have been mailed to all customers, state commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–753 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–29–002]

CenterPoint Energy Gas Transmission Company; Notice of Compliance Filing

January 8, 2003.

Take notice that on January 6, 2003, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Substitute First Revised Sheet No. 461, to be effective November 17, 2002.

CEGT states that the purpose of this filing is to reflect a pagination correction associated with its November 20th compliance filing in this docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: January 21, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–754 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–092]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rates

January 8, 2003.

Take notice that on December 31, 2002, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective January 1, 2003:

Original Sheet No. 663
Original Sheet No. 664
Sheet Nos. 665–699

CEGT states that the purpose of this filing is to reflect the implementation of a new negotiated rate transaction.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–756 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–092]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rates

January 8, 2003.

Take notice that on December 31, 2002, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective January 1, 2003:

Original Sheet No. 663
Original Sheet No. 664
Sheet Nos. 665–699

CEGT states that the purpose of this filing is to reflect the implementation of a new negotiated rate transaction.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–757 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–094]

CenterPoint Energy Gas Transmission Company; Notice of Compliance Filing

January 8 , 2003.

Take notice that on January 6, 2003, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Second Revised Sheet No. 461, to be effective November 18, 2002.

CEGT states that the purpose of this filing is to correct the pagination contained in this docket and to withdraw the tariff sheet filed in the above referenced docket on December 23, 2002.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: January 21, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–758 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–222–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 8, 2003.

Take notice that on December 31, 2002, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Thirteenth Revised Sheet No. 44, with a proposed effective date of February 1, 2003.

Columbia submits this Periodic RAM Filing pursuant to the provisions of section 35.2, ''Retainage Adjustment Mechanism (RAM),'' of the general terms and conditions of its Tariff. Thirteenth Revised Sheet No. 44 sets forth the retainage factors applicable to Columbia's transportation services, as revised by this filing. Pursuant to this filing, Columbia is proposing to adjust its transportation retainage percentage from 2.398% to 2.417%.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–747 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–049]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

January 8, 2003.

Take notice that on December 31, 2002, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets bearing a proposed effective date of February 1, 2003:

Sixty-second Revised Sheet No. 25

Sixty-second Revised Sheet No. 26
Sixty-second Revised Sheet No. 27
Fifty-third Revised Sheet No. 28
Seventh Revised Sheet No. 28B
Eighteenth Revised Sheet No. 29
Twenty-eighth Revised Sheet No. 30A

Columbia states that this filing is being submitted pursuant to an order issued by the Commission on September 15, 1999, that approved an uncontested settlement in the above-referenced proceeding. Columbia Gas Transmission Corporation, 88 FERC 61,217 (1999). The settlement established environmental cost recovery through unit components of base rates, all as more fully set forth in article VI of the settlement agreement filed April 5, 1999 (Phase II Settlement).

Columbia is required to file annually a limited NGA section 4 filing to adjust its environmental unit components effective February 1 to recover its environmental costs covered by the Phase II Settlement, within agreed-upon ceilings and recovery percentages. For the annual period February 1, 2003, through January 31, 2004, the Phase II Settlement permits Columbia to collect ''no more than $14 million annually in Main Program Costs'', and ''no more than $3 million annually in Storage Well Program Costs.'' per article VI(B) of the Phase II Settlement.

Columbia states that the instant filing satisfies that requirement. It provides for the February 1, 2003, effectiveness of revised unit components designed to collect $12 million in main program costs and to flowback an over-recovery of $ 0.5 million of storage well program costs.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–755 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–073]

Columbia Gulf Transmission Company; Notice of Compliance Filing

January 8, 2003.

Take notice that on January 6, 2003, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1,Substitute First Revised Sheet No. 20G, with an effective date of December 1, 2002.

Columbia Gulf states that it is filing this tariff sheet to correct an inadvertent error in its December 9, 2002 filing in Docket No. RP96–389–067.

Columbia Gulf states further that it has served copies of the filing on all parties identified on the official service list in Docket No. RP96–389.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: January 21, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–759 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–717–002]

El Paso Natural Gas Company; Notice of Application

January 8, 2003.

Take notice that on December 23, 2002, El Paso Natural Gas Company (El Paso), Post Office Box 1087, Colorado Springs, Colorado, 80944, in Docket No. CP98–717–002 filed a petition, pursuant to section 7(b) of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) rules and regulations, to further amend the orders issued on January 15, 1999 [1], as amended on August 10, 2000__ [2], at Docket Nos. CP98–717–000 and 001. El Paso seeks amended authorization to modify the method of abandonment for its 12–3/4'' O.D. El Paso-Douglas Loop Line (''Line No. 1005''), all as more fully set forth in its petition which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659.

Any questions regarding El Paso's petition to amend should be directed to Mr. Robert T. Tomlinson, Director, Regulatory Affairs, El Paso Natural Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944 at (719) 520–3788 or by fax at (719) 667–7534.

El Paso states that by order issued January 15, 1999, at Docket No. CP98–717–000, the Commission granted El Paso authorization for the abandonment, by removal, to the extent practicable, of three segments, totaling approximately 49.16 miles, of El Paso's 12–3/4'' O.D. El Paso-Douglas Loop Line (''Line No.

[1] *See* 86 FERC ¶ 61,042 (1999).

[2] *See* 92 FERC ¶ 62,127 (2000).

1005''), with appurtenances, located in Dona Ana and Luna Counties, New Mexico. Subsequently, on March 28, 2000, El Paso filed an application at Docket No. CP98–717–001 requesting amended authorization to abandon the facilities granted by the January 15, 1999, order. Specifically, El Paso sought Commission authorization to abandon approximately 44 miles of Line No. 1005 by transfer to El Paso Energy Communications Company (''EPECC'') for use as conduit for fiber optic cable, with the remaining 5.16 miles to be abandoned in place. Thereafter, on August 10, 2000, the Commission granted El Paso authority to amend its certificate at Docket No. CP98–717–001.

El Paso explains that although the Commission approved its amended application on August 10, 2000, El Paso has been unable to consummate the conveyance of the approximate 44 miles of Line No. 1005 to EPECC due to the suspension of EPECC's fiber optic expansion plans. Therefore, EPECC is no longer desirous of acquiring the 44 miles of Line No. 1005 from El Paso. Based on this change in circumstances, El Paso no longer intends to convey the 44-mile segment of Line No. 1005 and, instead, now desires to abandon the entire 49.16 miles of Line No. 1005 in place. Accordingly, El Paso is seeking to amend the January 15, 1999, order, as amended, modifying El Paso's method of abandonment of Line No. 1005 from abandonment by transfer to abandonment in place.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding. with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Comment Date: January 29, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–744 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–221–000]

High Island Offshore System, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

January 8, 2003.

Take notice that on December 31, 2002, High Island Offshore System, L.L.C. (HIOS) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to become effective February 1, 2003.

HIOS states that the proposed rate changes result in a decrease in total system revenues from jurisdictional service by approximately $ .5 million annually, based on the 12-month base period ending September 30, 2002, as adjusted for known and measurable changes through the nine month test period ending June 30, 2003.

HIOS states the rate change is necessary to compensate HIOS for its operating costs and allows HIOS to recover a reasonable depreciation expense, an increase in negative salvage expenses and a management fee.

HIOS states that a full copy of its filing is being served on all jurisdictional customers, applicable state commissions and interested parties that have requested service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–746 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–411–005 and RP01–44–007]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

January 8, 2003.

Take notice that on December 31, 2002, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Original Sheet No. 65A; Original Sheet No. 65B;

Original Sheet No. 65C; Original Sheet No. 65D; Original Sheet No. 65E; and Fourth Revised Sheet No. 66, with an effective date of November 1, 2002.

Iroquois states that these sheets were submitted in compliance with the Commission's October 31, 2002, order on compliance filing issued in Docket No. RP00–411–000, *et al.*

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–745 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–226–000]

Kern River Gas Transmission Company; Notice of Tariff Filing

January 8, 2003.

Take notice that on December 31, 2002, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Third Revised Sheet No. 490, with an effective date of February 1, 2003.

Kern River states that the filing is being made to submit Rate Schedule KRF–1 transportation service agreements between Kern River and National Fuel Marketing Company, LLC; and Kern River and Duke Energy Trading & Marketing, LLC., that do not conform to Kern River's Rate Schedule KRF–1, and to reference these agreements in Kern River's tariff.

Kern River states that it has served copies of the filing upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–751 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–227–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

January 8, 2003.

Take notice that on December 31, 2002, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Fiftieth Revised Sheet No. 9, to become effective January 1, 2003.

National states that under article II, section 2, of the settlement, it is required to recalculate the maximum Interruptible Gathering (IG) rate semi-annually and monthly. Further, National is required to charge the recalculated monthly rate on the first day of the following month if the result is an IG rate more than 2 cents above or below the IG rate as calculated under section 1 of article II. National states that the recalculation as shown at page 3 of Appendix E produced an IG rate of $0.22 per dth. In addition, article III, section 1 states that any overruns of the Firm Gathering service provided by National shall be priced at the maximum IG rate.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR

385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–752 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–075]

Natural Gas Pipeline Company of America; Notice of Negotiated Rates

January 8, 2003.

Take notice that on December 31, 2002, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain revised tariff sheets, to be effective January 1, 2003.

Natural states that the purpose of this filing is to implement an extension to an existing negotiated rate transaction with Nicor Gas under Natural's Rate Schedule FTS, DSS and NSS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–761 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–076]

Natural Gas Pipeline Company of America; Notice of Negotiated Rates

January 8, 2003.

Take notice that on January 2, 2003, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective January 1, 2003.

Natural states that the purpose of this filing is to implement a permanent release of a portion of firm transportation service capacity under an existing negotiated rate transaction with Aquila Merchant Services, Inc. (Aquila) under Natural's Rate Schedule FTS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–762 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–513–022]

Questar Pipeline Company; Notice of Negotiated Rates

January 8, 2003.

Take notice that on January 2, 2003, Questar Pipeline Company (Questar) tendered for filing a tariff filing to implement a negotiated-rate contract for BP Energy Company, as authorized by Commission orders issued October 27, 1999, and December 14, 1999, in Docket Nos. RP99–513, *et al.*

Questar states that the Commission approved Questar's request to implement a negotiated-rate option for Rate Schedules T–1, NNT, T–2, PKS, FSS and ISS shippers. Questar further notes that it submitts its negotiated-rate filing in accordance with the Commission's Policy Statement in Docket Nos. RM95–6–000 and RM96–7–000 (Policy Statement) issued January 31, 1996.

Questar states that copies of this filing have been served upon all parties to this proceeding, Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–763 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–166–004]

Stingray Pipeline Company, L.L.C.; Notice of Compliance Filing

January 8, 2003.

Take notice that on December 31, 2002, Stingray Pipeline Company, L.L.C. (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Twelfth Revised Sheet No. 5; with a proposed effective date of January 1, 2003.

Stingray states that on September 19, 2002, it filed a stipulation and agreement (Settlement) to resolve all issues pending in this proceeding. By letter order dated December 24, 2002 the Commission approved the settlement and directed Stingray to file within fifteen days tariff sheets implementing the Settlement rates. As directed by the Commission, Stingray is submitting the revised tariff sheet to implement the rates provided for in the Settlement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–760 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–224–000]

Tennessee Gas Pipeline Company; Notice of Tariff Revisions

January 8, 2003.

Take notice that on December 31, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Third Revised Sheet No. 588 and Second Revised Sheet 589, to be made effective on February 1, 2003.

Tennessee states that the revised tariff sheets modify the pro forma Balancing Agreement for Use at Delivery Points in order to allow for a term of less than, or longer than, one year.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–749 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–225–000]

Texas Eastern Transmission, L.P.; Notice of Proposed Changes in FERC Gas Tariff

January 8, 2003.

Take notice that on December 31, 2002, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, revised tariff sheets listed on Appendix A to the filing, to become effective February 1, 2003.

Texas Eastern states that these revised tariff sheets are filed pursuant to section 15.1, Electric Power Cost (EPC) Adjustment, of the general terms and conditions of Texas Eastern's FERC Gas Tariff, Seventh Revised Volume No. 1. Texas Eastern states that section 15.1 provides that Texas Eastern shall file to be effective each February 1 revised rates for each applicable zone and rate schedule based upon the projected annual electric power costs required for the operation of transmission compressor stations with electric motor prime movers and to also reflect the EPC Surcharge which is designed to clear the balance in the Deferred EPC Account.

Texas Eastern states that the rate changes proposed to the primary firm capacity reservation charges, usage rates and 100% load factor average costs for

full Access Area Boundary service from the Access Area Zone, East Louisiana, to the three market area zones are as follows:

Zone	Reservation	Usage	100% LF
Market 1	$(0.001)/dth	$(0.0013)/dth	$(0.0013)/dth
Market 2	$(0.001)/dth	$(0.0043)/dth	$(0.0043)/dth
Market 3	$(0.002)/dth	$(0.0063)/dth	$(0.0064)/dth

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–750 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–223–000]

Williston Basin Interstate Pipeline Company; Notice of Fuel Reimbursement Charge Filing

January 8, 2003.

Take notice that on December 31, 2002, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, the following revised tariff sheets to become effective February 1, 2003:

Second Revised Volume No. 1

Forty-Ninth Revised Sheet No. 15
Twenty-Fifth Revised Sheet No. 15A
Forty-Ninth Revised Sheet No. 16
Twenty-Fifth Revised Sheet No. 16A
Forty-Seventh Revised Sheet No. 18
Twenty-Fifth Revised Sheet No. 18A
Twenty-Fifth Revised Sheet No. 19
Twenty-Fifth Revised Sheet No. 20

Original Volume No. 2

Ninety-Second Revised Sheet No. 11B

Williston Basin states that the revised tariff sheets reflect revisions to the fuel reimbursement charge and percentage components of the Company's relevant gathering, transportation and storage rates, pursuant to Williston Basin's fuel reimbursement adjustment provision contained in section 38 of the general terms and conditions of its FERC Gas Tariff, Second Revised Volume No. 1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–748 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2395–020,2421–020, 2473–019 and 2640–027]

Wisconsin Department of Natural Resources v. Flambeau Hydro, L.L.C.; Notice of Complaint

January 7, 2003.

Take notice that on December 11, 2002, the State of Wisconsin Department of Natural Resources (Wisconsin DNR) filed a complaint pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206 (2002), and part I of the Federal Power Act, 16 U.S.C. 791, *et seq.*, against Flambeau Hydro, L.L.C. (Flambeau), licensee for the Pixley Project No. 2395, Lower Project No. 2421, Crowley Rapids Project No. 2473, and Upper Project No. 2640. The projects are located on the north fork of the Flambeau River in Price County, Wisconsin.

Wisconsin DNR states that Flambeau has failed to file with the Commission 22 compliance submittals required by the licenses for the above named projects and 7 other submittals required by the Commission staff. Wisconsin DNR requests Commission action, including imposition of penalties of up

to $10,000 per day for each instance of noncompliance with license and Commission staff requirements as described in a June 18, 2002 Commission staff compliance order. Wisconsin DNR also seeks revocation of the licenses if Flambeau has not completed all required licensee consultations with resource agencies and submitted all compliance filings within 90 days of the issuance date of this notice.

Copies of the complaint are on file with the Commission and are available for public inspection in the Commission's Public Reference Room. The complaint may also be viewed on the Internet at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

Any person desiring to be heard or to protest this filing should file comments, a motion to intervene, or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

The licensee's answer to the complaint and all comments, motions, or protests must be filed on or before January 23, 2003. Any entity wishing to become a party must file a motion to intervene. The answer to the complaint, comments, motions to intervene, and protests may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(ii), and the instructions on the Commission's Web site under the ''e-filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–700 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3149–004, et al.]

Nevada Power Company, et al.; Electric Rate and Corporate Filings

January 7, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Nevada Power Company

[Docket No. ER01–3149–004]

Take notice that on January 2, 2003, Nevada Power Company tendered for filing its compliance filing making the changes to the Interconnection and Operation Agreement (Agreement) between Nevada Power Company and Mirant Las Vegas, LLC required by the Commission's November 22, 2002 order in this docket.

Comment Date: January 23, 2003.

2. ISO New England Inc.

[Docket No. ER02–2153–002]

Take notice that on January 3, 2003, ISO New England Inc. submitted a compliance report in this proceeding.

Copies of said filing have been served upon all parties to this proceeding and the New England utility regulatory agencies, and electronically upon the New England Power Pool participants.

Comment Date: January 24, 2003.

3. California Power Exchange Corporation

[Docket No. ER02–2234–005]

Take notice that on December 31, 2002, the California Power Exchange Corporation made a filing to comply with the Commission's December 20, 2002 order in this proceeding (101 FERC ¶61,330).

Comment Date: January 21, 2003.

4. Southern California Edison Company

[Docket No. ER02–2496–001]

Take notice that on January 6, 2003, Southern California Edison Company (SCE) submitted for filing a compliance filing regarding refunds for Scheduling and Dispatching (S&D) services SCE rendered in 2002.

The purpose of this filing is to comply with the Commission's Letter Order in Docket No. ER02–2496–000 issued October 23, 2002, accepting SCE's proposed rate for 2002 S&D services and ordering SCE to submit a refund report.

Copies of this filing were served upon Public Utilities Commission of the State of California, Arizona Public Service, M-S-R Public Power, and The Metropolitan Water District of Southern California.

Comment Date: January 27, 2003.

5. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–2595–002]

Take notice that on December 23, 2002, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO), pursuant to the November 22, 2002 Order in Docket No. ER02–2595–000, tendered for filing an Informational Filing regarding its efforts to develop and implement the processes and systems required for the Midwest ISO to administer day-ahead and real-time energy markets in the Midwest (the Energy Markets), including development of the systems and processes necessary to facilitate the distribution and use of Financial Transmission Rights (FTRs) and implement appropriate Market Mitigation Measures.

The Midwest ISO seeks waiver of the Commission's Regulations, 18 CFR 385.2010 with respect to service on all parties on the official service list in this proceeding. The Midwest ISO states that it has notified via electronic mail all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region that the filing has been posted electronically on the Midwest ISO's Web site at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: January 13, 2003.

6. ISO New England Inc.

[Docket No. ER03–147–001]

Take notice that on January 3, 2003, ISO New England Inc. submitted its compliance filing in response to the Commission's December 19, 2002 Order in the above-captioned docket.

Copies of said filing have been served upon all parties to this proceeding, and upon NEPOOL Participants, and upon all non-Participant entities that are customers under the NEPOOL Open Access Transmission Tariff, as well as upon the utility regulatory agencies of the six New England States.

Comment Date: January 24, 2003.

7. American Ref-Fuel Company of Essex County

[Docket No. ER03–170–001]

Take notice that on January 2, 2003, American Ref-Fuel Company of Essex County tendered for filing under Section 205 of the Federal Power Act a substitute tariff sheet in compliance with the delegated letter order issued on December 26, 2002 in the above-captioned docket.

Comment Date: January 23, 2003.

8. Geysers Power Company, L.L.C.

[Docket No. ER03–184–001]

Take notice that on December 31, 2002, Geysers Power Company, LLC, (Geysers Power) tendered for filing substitute rate schedule sheets to the

November 14, 2002, filing in this docket setting forth revisions to the Geysers Main Reliability Must-Run Agreement between Geysers Power and the California Independent System Operator Corporation for calendar year 2003.

Comment Date: January 21, 2003.

9. PJM Interconnection, L.L.C.

[Docket No. ER03–331–001]

Take notice that on January 3, 2003, PJM Interconnection, L.L.C. (PJM), amended its December 24, 2002 filing in this docket. In its December 24, 2002 filing, PJM submitted amendments to the Appendix to Attachment K of the PJM Open Access Transmission Tariff and Schedule 1 of the Amended and Restated Operating Agreement (Operating Agreement) to modify the provisions relating to the determination of eligibility to receive Operating Reserves credits during Maximum Generation Emergency conditions. The revised Operating Agreement pages, however, inadvertently were omitted from the filing. Therefore, PJM hereby amends its December 24, 2002 filing to include the revised pages of Schedule 1 of the Operating Agreement that inadvertently were omitted from its December 24, 2002 filing.

Copies of this filing were served upon all PJM members and each state electric utility regulatory commission in the PJM region.

Comment Date: January 24, 2003.

10. Duke Energy Corporation

[Docket No. ER03–359–000]

Take notice that on December 31, 2002, Duke Energy Corporation, on behalf of Duke Power, (collectively, Duke), tendered for filing: (1) Proposed revisions to Duke's Rate Schedule No. 10–A; and (2) Amendment No. 1 to the Settlement Agreement between Duke and the City of Concord, North Carolina; the Town of Dallas, North Carolina; the Public Works Commission of the Town of Due West, South Carolina; the Town of Forest City, North Carolina; the City of Kings Mountain, North Carolina; the Town of Prosperity, South Carolina; Lockhart Power Company; and Clemson University. Duke requests an effective date for the proposed revisions to Rate Schedule No. 10–A of January 1, 2003.

Comment Date: January 21, 2003.

11. PJM Interconnection, L.L.C.

[Docket No. ER03–360–000]

Take notice that on December 31, 2002, PJM Interconnection, L.L.C. (PJM), filed a revision to Schedule 9 of the PJM Open Access Transmission Tariff (PJM Tariff), to correct an error in a recently approved change to Schedule 9 that will take effect on January 1, 2003.

PJM states that copies of this filing were served upon all PJM members and each state electric utility regulatory commission in the PJM region. PJM also proposes an effective date of January 1, 2003 for the revision.

Comment Date: January 21, 2003.

12. New England Power Pool

[Docket No. ER03–361–000]

Take notice that on December 31, 2002, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to: (1) Permit NEPOOL to expand its membership to include AIG Energy Trading Inc. (AIGET) and Industrial Power Services Corp. (IPSC); and (2) to terminate the memberships of Public Service Company of Colorado (PSCC), Town of Wiscasset (Wiscasset), and Exeter & Hampton Electric Company (Exeter). The Participants Committee requests the following effective dates: December 1, 2002 for the termination of PSCC; December 2, 2002 for the termination of Exeter; January 1, 2003 for the commencement of participation in NEPOOL by AIGET and the termination of Wiscasset; and March 1, 2003 for commencement of participation in NEPOOL by IPSC.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: January 21, 2003.

13. Midwest Independent Transmission System Operator, Inc.

American Transmission Company LLC

[Docket No. ER03–362–000]

Take notice that on December 31, 2002, the Midwest Independent Transmission System Operator, Inc., (Midwest ISO) tendered for filing proposed changes to its Open Access Transmission Tariff, FERC Electric Tariff, Second Revised Volume No. 1, to revise its formula rate to reflect changes to certain rate calculations applicable to the American Transmission Company LLC (ATCLLC) rate zone (Zone 1). The revised tariff sheets contain proposed revisions to ATCLLC's formula rate true-up mechanism to implement a one-time change to the calculation of the rate true-up to offset a revenue shortfall year 2001 with the estimated over-collection of costs in year 2002. The revised tariff sheets also contain a revised formula for the collection of ATCLLC's start-up costs, which calculates ATCLLC's start-up cost adder on a straight-line basis.

Both of the proposed changes reduce the amounts collected from transmission customers. The Midwest ISO requests waiver of the Commission's notice requirements to allow the proposed changes to be made effective on January 1, 2003.

The Midwest ISO seeks waiver of the Commission's regulations, 18 CFR 385.2010 with respect to service on all required parties. The Midwest ISO has posted this filing on its Internet site at *www.midwestiso.org*, and the Midwest ISO or ATCLLC will provide hard copies to any interested parties upon request.

Comment Date: January 21, 2003.

14. Entergy Services, Inc.

[Docket No. ER03–363–000]

Take notice that on December 31, 2002, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Long-Term Firm Point-To-Point Transmission Service Agreement between Entergy Services, Inc., as agent for the Entergy Operating Companies, and City Water and Light of The City of Jonesboro, Arkansas.

Comment Date: January 23, 2003.

15. Alliant Energy Corporate Services, Inc.

[Docket No. ER03–364–000]

Take notice that on December 31, 2002, Alliant Energy Corporate Services, Inc. (Alliant Energy Corporate Services) tendered for filing an unexecuted First Amendment to the Interconnection and Transmission Service Agreement between Iowa Southern Utilities Company, an Alliant Energy-IPL predecessor, and Northeast Missouri Electric Power Cooperative.

Alliant Energy Corporate Services requests an effective date of March 1, 2003, for the filed Amendment. Alliant Energy Corporate Services accordingly seeks waiver of the Commission's notice requirements. Alliant Energy Corporate Services states that a copy of this filing has been served upon the Public Service Commission of Wisconsin, the Iowa Utilities Board, the Illinois Commerce Commission and the Minnesota Public Utilities Commission.

Comment Date: January 23, 2003.

16. California Independent System Operator Corporation

[Docket No. ER03–365–000]

Take notice that on December 31, 2002, the California Independent System Operator Corporation (ISO) submitted for Commission filing and acceptance the Utility Distribution Company Operating Agreement (UDC

Operating Agreement) between the ISO and the City of Banning, California. The ISO requests that the UDC Operating Agreement be made effective as of January 1, 2003. The ISO requests privileged treatment, pursuant to 18 CFR 388.112, with regard to portions of the filing.

The ISO states that it has served copies of this filing upon the City of Banning, California, and the Public Utilities Commission of the State of California.

Comment Date: January 23, 2003.

17. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–366–000]

Take notice that on December 31, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing proposed revisions to the Midwest ISO Open Access Transmission Tariff, FERC Electric Tariff, Second Revised Volume No. 1, which revisions are intended to comply with Commission's July 5, 2002 Order requesting the Midwest ISO incorporate its Joint Open Access Transmission Tariff (JOATT) into its Midwest ISO Open Access Transmission Tariff (OATT). Applicant requests an effective date of January 1, 2003.

The Midwest ISO has requested waiver of the requirements set forth in 18 CFR 385.2010. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Web site at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter.

Comment Date: January 23, 2003.

18. Soyland Power Cooperative, Inc.

[Docket No. ER03–367–000]

Take notice that on December 31, 2002, Soyland Power Cooperative, Inc. (Soyland) tendered for filing with the Federal Energy Regulatory Commission (the Commission) an Agreement Regarding Use of Soyland Owned Lines and Substation Assets (Facilities Use Agreement) between Soyland and M.J.M. Electric Cooperative, Inc. (MJM).

Soyland requests that the Commission grant all waivers necessary to allow the agreement to become effective on January 1, 2003. Soyland states that a copy of the filing has been served on MJM.

Comment Date: January 23, 2003.

19. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–368–000]

Take notice that on December 31, 2002, Midwest Independent System Operator, Inc. (Midwest ISO) submitted for filing a Notice of Cancellation pursuant to 18 CFR 35.15 to reflect the cancellation of its Joint Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 2, with a proposed effective date of January 1, 2003.

The Midwest ISO has requested waiver of the requirements set forth in 18 CFR 385.2010. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Web site at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter.

Comment Date: January 23, 2003.

20. Duke Energy Corporation

[Docket No. ER03–369–000]

Take notice that on December 12, 2002, Duke Energy Corporation, on behalf of Duke Electric Transmission, (collectively, Duke) tendered for filing a Notice of Cancellation of an Interconnection and Operating Agreement by and between Duke Electric Transmission and GenPower Anderson, LLC, Second Revised Rate Schedule No. 277 under FERC Electric Tariff No. 4. Duke requests and effective date for the cancellation of November 6, 2002.

Comment Date: January 17, 2003.

21. Entergy Services, Inc.

[Docket No. ER03–370–000]

Take notice that on January 2, 2003, Entergy Services, Inc., on behalf of Entergy Mississippi, Inc. (Entergy Mississippi), tendered for filing the Agreement for Establishment of the Silver Creek Generating Facility as an Off-System Delivery Point (Agreement) between Entergy Mississippi and South Mississippi Electric Power Association. The Agreement modifies Exhibit A of Rate Schedule No. 251.

Comment Date: January 23, 2003.

22. Concord Electric Company Exeter & Hampton Electric Company

[Docket No. ER03–371–000]

Take notice that on January 2, 2003, Concord Electric Company (CECo) and Exeter & Hampton Electric Company (E&H), filed a Notice of Cancellation with the Federal Energy Regulatory Commission pursuant to Sections 35.15 and 131.53 of the Commission's Rules and Regulations, 18 CFR 35.15 and 131.53. CECo and E&H seek to cancel their Open Access Transmission Tariffs, designated, respectively as FERC Electric Tariff, Original Volume No. 2 and FERC Electric Tariff, Original Volume No. 1. CECo and E&H request that the cancellation be made effective as of December 2, 2002.

Comment Date: January 23, 2003.

23. Peak Power Generating Company, Inc.

[Docket No. ER03–372–000]

Take notice that on January 2, 2003, Peak Power Generating Company, Inc. (Peak Power) tendered for filing a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations. As a result of a name change, Peak Power is succeeding to the tariffs and related service agreements of RAMCO, Inc., effective December 17, 2002.

Comment Date: January 23, 2003.

24. WPS Resources Operating Companies

[Docket No. ER03–373–000]

Take notice that on January 2, 2003, Wisconsin Public Service Corporation and Upper Peninsula Power Company (together WPS Resources) tendered for filing a Joint Ancillary Services Tariff, FERC Electric Tariff, Original Volume No. 2 (JAST). WPS Resources states that the JAST will ultimately replace its Open Access Transmission Tariff (OATT). WPS Resources no longer provides transmission service because it has transferred ownership of its transmission facilities to the American Transmission Company LLC, which has transferred operational control of those facilities to the Midwest Independent System Operator. WPS Resources states that it will eventually cancel its OATT after the Commission accepts the JAST for filing and all applicable service agreements under its OATT have been replaced by service agreements under the JAST.

WPS Resources respectfully requests that the JAST become effective on March 3, 2003. WPS Resources also states that copies of the filing were served upon all customers under the WPS Resources Operating Companies OATT, the Public Service Commission

of Wisconsin and the Michigan Public Service Commission.

Comment Date: January 23, 2003.

25. Unitil Energy Systems, Inc.

[Docket No. ER03–374–000]

Take notice that on January 2, 2003, Unitil Energy Systems, Inc. (UES), filed a Notice of Succession with the Federal Energy Regulatory Commission pursuant to Sections 35.16 and 131.51 of the Commission's Rules and Regulations, 18 CFR 35.16 and 131.51. UES adopted and ratified all applicable rate schedules filed with the Federal Energy Regulatory Commission by Concord Electric Company and Exeter & Hampton Electric Company. UES also resubmitted its rate schedules to conform them to the formatting requirements of Order No. 614. UES requested that the revised rate schedules be made effective as of December 2, 2002.

Comment Date: January 23, 2003.

26. Warrensburg Hydro Power Limited Partnership Sissonville Limited Partnership NYSD Limited Partnership

[Docket No. ER03–375–000]

Take notice that Warrensburg Hydro Power Limited Partnership, Sissonville Limited Partnership, and NYSD Limited Partnership tendered for filing on January 2, 2003, the following agreements:

Warrensburg Hydro Power Limited (Warrensburg): Letter Agreement to Amend PSA No. 1298, dated October 25, 2002, (signed by Warrensburg on October 29, 2002; signed by NMPC on December 3, 2002), to extend the termination date to December 31, 2003;

Sissonville Limited Partnership (Sissonville): Letter Agreement to Amend PSA No. 1299, dated October 25, 2002, (signed by Sissonville on October 29, 2002; signed by NMPC on December 3, 2002), to extend the termination date to December 31, 2003; and

NYSD Limited Partnership (NYSD): Letter Agreement to Amend PSA No. 1300, dated October 25, 2002, (signed by NYSD on October 29, 2002; signed by NMPC on December 3, 2002), to extend the termination date to December 31, 2003.

Copies of the filings were provided to Niagara Mohawk Power Corporation and New York Public Service Commission. Warrensburg, Sissonville and NYSD have requested that further notice requirement be waived and the executed agreements be allowed to become effective November 1, 2002.

Comment Date: January 23, 2003.

27. NorthWestern Energy

[Docket No. ER03–376–000]

Take notice that on January 3, 2003, NorthWestern Energy, a division of NorthWestern Corporation (NorthWestern Energy), filed with the Federal Energy Regulatory Commission a Notice of Succession pursuant to Section 35.16 of the Commission's regulations, 18 CFR 35.16, and revised tariff sheets to NorthWestern Energy's FERC Electric Tariff, to reflect that, as a result of a name change, NorthWestern Energy is succeeding to the FERC Electric Tariff of Northwestern Public Service Company, effective January 3, 2003.

Comment Date: January 24, 2003.

28. Florida Power Corporation

[Docket No. ER03–377–000]

Take notice that Florida Power Corporation (FPC), on January 3, 2003, tendered for filing a revision to its Cost-Based Wholesale Power Sales Tariff, FERC Electric Tariff, First Revised Volume No. 9 (CR–1 Tariff). The CR–1 Tariff is revised to eliminate a provision referencing FPC's fuel adjustment clause. FPC requests that the revision become effective on April 22, 1998.

FPC states that copies of the filing were served upon the Florida Public Service Commission and those customers taking service from FPC under the CR–1 Tariff.

Comment Date: January 24, 2003.

29. Midwest Independent Transmission System Operator, Inc., *et al.*

[Docket No. ER03–378–000]

Take notice that on January 3, 2003, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing an Interconnection and Operating Agreement entered into by the Midwest ISO, Interstate Power and Light Company (a wholly owned subsidiary of Alliant Energy Corporation), and FPL Energy Hancock County Wind, LLC.

Comment Date: January 24, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–702 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2552–058]

FPL Energy Maine Hydro, LLC; Notice of Availability of Draft Environmental Assessment

January 7, 2003.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission or FERC) regulations contained in the Code of Federal Regulations (CFR) (18 CFR part 380 [FERC Order No. 486, 52 FR 47897]), the Office of Energy Projects staff (staff) reviewed the application for surrender of project license for the Fort Halifax Project, located on the Sebasticook River, Kennebec County, Maine, and prepared an environmental assessment (EA) for the project. In this EA, staff analyze the potential environmental effects of the surrender of license and conclude that the surrender, or any other alternative considered, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room, or it may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link.

Enter the docket number (prefaced by P- and excluding the last three digits) in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659.

Any comments should be filed by February 14, 2003, and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix ''Fort Halifax Project No. 2552–058,'' to all comments. For further information, please contact Robert Fletcher at (202) 502–8901, or at *robert.fletcher@ferc.gov* or Jean Potvin at (202) 502–8901 or at *jean.potvin@ferc.gov*.

Comments may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–701 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

January 7, 2003.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection.

a. *Type of Applications:* New Major Licenses.

b. *Projects:* Spring Gap-Stanislaus Project No. 2130–033, Donnells-Curtis Transmission Line Project No. 2118–007, Beardsley/Donnells Project No. 2005–012, and Tulloch Project No. 2067–020.

c. *Dates Filed:* P–2130 and P–2118 filed December 26, 2002; P–2005 and P–2067 filed December 23, 2002.

d. *Applicant:* Pacific Gas and Electric Company, current licensee for P–2130 and P–2118; and Tri-Dam Project, current licensee for P–2005 and P–2067.

e. *Location:* On the Middle Fork, South Fork, and mainstem of the Stanislaus River in Toulumne and Calaveras counties, California. All of the Beardsley/Donnell Project, most of the Spring Gap-Stanislaus Project, and all of the Donnell-Curtis Transmission Line Project are located within the Stanislaus National Forest.

f. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791 (a)-825(r).

g. *Applicant Contact:* Mr. Randy Livingston, Pacific Gas and Electric Company, PO Box 770000, Mail Code: N11C, San Francisco, CA 94117; and Mr. Steve Felte, Tri-Dam Project, P.O. Box 1158, Pinecrest, CA 95364.

h. *FERC Contact:* Susan O'Brien, (202) 502–8449 or *susan.obrien@ferc.gov*.

i. *Cooperating agencies:* We are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item k. below.

j. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the applications on their merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the applications, and serve a copy of the request on the applicant.

k. *Deadline for filing additional study requests and requests for cooperating agency status:* February 24, 2003.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's rules of practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

l. This application is not ready for environmental analysis at this time.

m. The existing Spring Gap-Stanislaus Project is composed of four developments: Relief, Pinecrest, Spring Gap, and Stanislaus. It has a combined capacity of 98 MW.

The existing Donnells-Curtis Transmission Line Project is a 115 kV transmission line. Portions of the transmission line under FERC jurisdiction include an 8-mile segment extending from Donnells Powerhouse to Spring Gap Junction and the 2.2-mile tap line from Beardsley Powerhouse to Beardsley Junction.

The existing Beardsley/Donnell Project is composed of the Beardsley and Donnell Developments and has a combined capacity of 64 MW.

The existing Tulloch Project is composed of a single development and has a capacity of 17.1 MW.

n. A copy of the applications are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item g. above.

o. With this notice, we are initiating consultation with the California State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

p. *Procedural schedule and final amendments:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Acceptance or Deficiency Letter: March 2003

Request Additional Information: March 2003

Issue Scoping Document 1 for comments: June 2003

Hold Scoping Meeting: July 2003

Request Additional Information (if necessary): September 2003

Issue Scoping Document 2: September 2003

Notice that applications are ready for environmental analysis: September 2003

Notice of the availability of the draft NEPA document: March 2004

Initiate 10(j) process: May 2004

Notice of the availability of the final NEPA document: September 2004

Ready for Commission decision on the application: December 2004

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Magalie R. Salas,

Secretary.

[FR Doc. 03–699 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD03–3–000]

Capital Availability for Energy Markets; Agenda for Technical Conference and Announcement of Time Change

January 8, 2003.

As announced on December 20, 2002, the Federal Energy Regulatory Commission (FERC) is holding a technical conference on capital availability for energy markets. The conference is scheduled for Thursday, January 16, 2003, at FERC headquarters, 888 First Street, NE., Washington, DC, in the Commission Meeting Room (Room 2C).

This conference will explore the status of capital available for energy market needs including infrastructure. Speakers include representatives of investment banks, commercial banks, insurance companies, hedge funds, credit rating agencies and other similar institutions as well as market participants and customers. In addition to FERC, representatives of other relevant agencies will attend.

This one-day conference will begin at 9:30 a.m. (not 8:30 a.m. as previously announced) and will conclude at 4:30 p.m. All interested parties are invited to attend. There is no registration fee.

The vision of FERC is dependable, affordable energy through competitive markets. Current conditions in energy markets are causing concern due to questions of capital availability, credit-worthiness of market participants, and market uncertainty. In holding this conference, FERC will be looking forward to an informative discussion on what problems exist and what their potential solutions are, along with what actions can be taken by FERC.

Capitol Connection will cover this meeting live over the Internet, as well as via telephone and satellite. For a fee, you can receive these meetings in your office, at home, or anywhere in the world. To find out more about Capitol Connection's live Internet, phone bridge, or satellite coverage, contact David Reininger or Julia Morelli at (703) 993–3100, or visit www.capitolconnection.org.

The conference will be transcribed; transcripts will be available to view electronically under this docket number seven days after the conference. Those interested in obtaining transcripts of the conference need to contact Ace Federal Reporters at (202) 347–3700 or (800) 336–6646. Anyone interested in purchasing videotapes of the meeting should call VISCOM at (703) 715–7999.

The Agenda and the list of participants is attached. For additional information, please contact Anita Herrera of FERC's Office of Market Oversight & Investigations at 202–502–8150 or by e-mail, *Anita.Herrera@ferc.gov*.

Magalie R. Salas,

Secretary.

Capital Availability for Energy Markets

[Docket No. AD03–3–000]

Agenda for Technical Conference

JANUARY 16, 2003. Welcoming remarks by The Chairman and Commissioners.

Panel I—Capital Investors, 9:30 a.m.–11 a.m.

Richard Kaufman, Credit Lyonnais.
Doug Kimmelman, Goldman Sachs.
Kit Konolige, Morgan Stanley.
Donald Peterson, GE Financial Services.
Kara Silva, MBIA Insurance Corp.
Evan Silverstein, SILCAP, LLC.
Joachim Schnabel, Teachers Insurance and Annuity Association College Retirement Equities Fund (TIAA–CREF).

Panel II—Market Analysts, 11 a.m.–12:30 p.m

Carole Coale, Prudential Securities.
John Diaz, Moody's Energy Rating Service.
Steve Fleishman, Merrill Lynch.
Richard Hunter, Fitch Ratings.
Suzanne Smith, Standard & Poor's.
Christine Tezak, Schwab Capital Markets WRG.
Jone Lin-Wang, Cambridge Energy Research Associates.

Lunch Break 12:30 p.m.–1:30 p.m.

Panel III—Market Participants, 1:30 p.m.–3 p.m.

Larry Downes, New Jersey Natural Gas, American Gas Association.
Robert Kelly, Calpine Corporation.
Obie O'Brien, Apache Corporation, Coalition for Energy Market Integrity and Transparency.
William Transier, Ocean Energy, Natural Gas Supply Association.
Representative, Exelon Corporation.
Representative, American Public Power Association.
Representative, Electricity Consumers Resource Council.
Representative, Interstate Natural Gas Association of America.

Panel IV—Regulatory & Private Agencies/ Organizations, 3 p.m.–4:30 p.m.

Neel Foster, Financial Accounting Standards Board.
Rick Mattoon, Federal Reserve Bank of Chicago.
Mike Smith, Committee of Chief Risk Officers.
Representative, Rural Utilities Service, U.S. Department of Agriculture.

Panels I—III will address: First 30–40 minutes of each panel—5 minute opening remarks from each panelist.

What are the causes of the current problems of capital availability for the energy markets?
—What is the energy industry's investment attractiveness?
—What barriers to needed investment exist in the energy industry?
—What investment is needed to support competitive energy markets?
—What capital is needed to support energy trading activities, and how much and what type of investment is needed to support the addition of physical assets by sector—production, transmission, and distribution?
—What capital structure is needed?
—What financing is needed, project versus balance sheet financing?
—What is the timing of these investments?
—What are the potential solutions to existing barriers in the energy industry?
From the private industry?
From FERC policy?
From other regulatory agency policy?

Panels IV will address: First 30 minutes of the panel—5 minute opening remarks from each panelist.

—What roles / responsibilities does your agency / organization play in the energy market?
—What solutions to barriers for capital availability are in progress?
—What coordination is needed with other agencies / organizations?

[FR Doc. 03–743 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Notice

January 8, 2003.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: January 15, 2003, 10 a.m.

PLACE : Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS : Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION Magalie R. Salas, Secretary, telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

815th Meeting—January 15, 2003; Regular Meeting, 10 a.m.

Administrative Agenda

A–1.
Docket# AD02–1,000, Agency Administrative Matters
A–2.
Docket# AD02–7,000, Customer Matters, Reliability, Security and Market Operations
A–3.
Seams Resolution Presentation
A–4.
Staff Presentation on Winter Market Assessment
A–5.
Staff Presentation on Commission Use of Natural Gas Price Indices

Markets, Tariffs and Rates—Electric

E–1. Docket# EL03–23, 000, Pacer Power LLC
E–2. Docket# ER03–216, 000, Midwest Independent Transmission System Operator, Inc., and TransLink Development Company, LLC
E–3.
Docket# PL03–1, 000, Proposed Pricing Policy for Efficient Operation and Expansion of Transmission Grid
E–4.
Docket# EC02–113, 000, Cinergy Services, Inc., on behalf of PSI Energy, Inc., CinCap Madison, LLC and CinCap VII, LLC
E–5.
Omitted
E–6.
Omitted
E–7.
Docket# ER02–912, 000, Otter Tail Power Company
Other#s
ER02–912, 001, Otter Tail Power Company
ER02–912, 002, Otter Tail Power Company
ER02–912, 003, Otter Tail Power Company
ER02–912 004, Otter Tail Power Company
ER02–912 005, Otter Tail Power Company
ER02–1728 000, Otter Tail Power Company
ER02–1729 000, Otter Tail Power Company
ER02–1730 000, Otter Tail Power Company
ER02–1730 001, Otter Tail Power Company
ER02–1731 000, Otter Tail Power Company
ER02–1732 000, Otter Tail Power Company
ER02–1733 000, Otter Tail Power Company
E–8.
Docket#, ER02–977, 000, Wisconsin Power & Light Company
E–9.
Omitted
E–10.
Omitted
E–11.
Omitted
E–12.
Docket# ER02–1656, 010, California Independent System Operator Corporation
Other#S EL01–68, 025, Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Electricity Coordinating Council
ER02–1656, 011, California Independent System Operator Corporation
ER02–1656, 012, California Independent System Operator Corporation
ER02–2576, 002, California Independent System Operator Corporation
E–13.
Docket# EL02–108, 000, *Truckee Donner Public Utility District* v. *Idaho Power Company,* IDACORP Energy, L.P., and IDACORP, Inc.
E–14.
Omitted
E–15.
Docket# RT03–1, 000, Communications with Independent Market Monitors
E–16.
Docket#
ER02–863, 000, Midwest Independent Transmission System Operator, Inc.
Other#S EL02–68, 000, *Southern Minnesota Municipal Power Agency* v. *Alliant Energy Corporate Services, Inc.*
ER02–330, 000, Alliant Energy Corporate Services, Inc.
ER02–330, 001, Alliant Energy Corporate Services, Inc.
ER02–863, 001, Midwest Independent Transmission System Operator, Inc.
E–17.
Docket# ER03–215, 000, Mirant Delta, LLC and Mirant Potrero, LLC

Markets, Tariffs and Rates—Gas

G–1.
Docket# RM00–6,002, Well Category Determinations
G–2.
Docket# RP03–206, 000, ANR Pipeline Company
G–3.
Docket# RP03–213, 000, Gulf South Pipeline Company, LP
G–4.
Docket# RP02–362, 001, PG&E Gas Transmission, Northwest Corp.
Other#s RP02–362, 002, PG&E Gas Transmission, Northwest Corp.
G–5.
Docket# RP96–200, 086, CenterPoint Energy Gas Transmission Company (Formerly Reliant Energy Gas Transmission Company)
Other#s RP96–200,089, CenterPoint Energy Gas Transmission
Company (Formerly Reliant Energy Gas Transmission Company)
G–6.
Docket# RP03–143,000, Tennessee Gas Pipeline Company
G–7.
Docket# CP88–391,027, Transcontinental Gas Pipe Line Corporation
Other#s CP88–391, 028, Transcontinental Gas Pipe Line Corporation
RP93–162, 012, Transcontinental Gas Pipe Line Corporation
RP93–162, 013, Transcontinental Gas Pipe Line Corporation
G–8.
Docket# RP03–82, 000, Kern River Company
G–9.
Docket# RP00–335, 002, Black Marlin Pipeline Company
Other#s RP01–414, 002, Black Marlin Pipeline Company
G–10.
Docket# RP96–312, 105, Tennessee Gas Pipeline Company
G–11.
Omitted
G–12.
Omitted
G–13.
Docket# RP99–480, 003, Texas Eastern Transmission, LP

Energy Projects—Hydro

H–1.
Docket# P–460, 000, City of Tacoma, Washington
H–2.
Docket# P–2738, 049, New York State Electric & Gas Corporation
H–3.
Docket# P–2145, 047, Public Utility District No. 1 of Chelan County, Washington
Other#s P–943, 077, Public Utility District No. 1 of Chelan
County, Washington
H–4.
Omitted
H–5.
Omitted
H–6.
Omitted
H–7.
Docket# P–10461, 011, Erie Boulevard Hydropower, L.P.
Other#s P–10462, 011, Erie Boulevard Hydropower, L.P.
H–8.
Omitted
H–9.
Docket# P–2816, 019, North Hartland, LLC

Energy Projects—Certificates

C–1.
Docket# RM03–4, 000, Emergency Reconstruction of Interstate
Natural Gas Facilities under the Natural Gas Act
Other#s AD02–14, 000, Emergency Reconstruction of Interstate Natural Gas Facilities under the Natural Gas Act
C–2.
Docket# CP01–384, 002, Islander East Pipeline Company, LLC
Other#S CP01–385, 002, Islander East Pipeline Company, LLC

CP01–386, 002, Islander East Pipeline Company, LLC
CP01–387, 002, Algonquin Gas Transmission Company
C–3.
Docket# CP01–176, 004, Georgia Strait Crossing Pipeline LP
Other#S CP01–177, 002, Georgia Strait Crossing Pipeline LP
CP01–178, 002, Georgia Strait Crossing Pipeline LP
CP01–179, 002, Georgia Strait Crossing Pipeline LP

Magalie R. Salas,

Secretary.

[FR Doc. 03–832 Filed 1–10–03; 11:08 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons to Attend; Sunshine Act

January 8, 2003.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: January 15, 2003, (Within a relatively short time before or after the regular Commission Meeting).

PLACE: Hearing Room 6, 888 First Street, NE., Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Non-Public Investigations and Inquiries, And Enforcement Related Matters.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, Telephone (202) 502–8400.

Chairman Wood and Commissioners Massey and Brownell voted to hold a closed meeting on January 15, 2003. The certification of the General Counsel explaining the action closing the meeting is available for public inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary and her assistant, the General Counsel and members of her staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who will advise the Commissioners in the matters discussed will also be present.

Magalie R. Salas,

Secretary.

[FR Doc. 03–833 Filed 1–10–03; 11:08 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2000–036]

New York Power Authority; Notice Modifying a Restricted Service List for Comments on a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

January 7, 2003.

On April 14, 2000, the Federal Energy Regulatory Commission (Commission) issued a notice for the St. Lawrence-FDR Power Project proposing to establish a restricted service list for the purpose of developing and executing a Programmatic Agreement (PA) for managing properties included in or eligible for inclusion in the National Register of Historic Places. On June 5, 2000, the restricted service list was modified to include the Department of the Interior (Interior). On August 2, 2001, the restricted service list was modified to: (1) Change the address for Mr. Thomas Tatham; (2) change the contact for the Saint Regis Mohawk Tribe; (3) change the contact for Interior; and (4) delete Mr. Robert Dean. On June 26, 2002, the restricted service list was modified to change for the Bureau of Indian Affairs. The St. Lawrence-FDR Power Project is located on the St. Lawrence River, in St. Lawrence County, New York. The New York Power Authority is the licensee.

Rule 2010 of the Commission's Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established. The following changes to the existing restricted service list are noted.

The address for Mr. James Teitt has changed. Remove Chief Brian Skidders as the contact for the Mohawk Nation Council of Chiefs.

As a result of these changes, the revised final restricted service list, for the purpose of commenting on the PA for the St. Lawrence-FDR Power Project, is as follows:

Dr. Robert Kuhn,
Dr. Laura Henley Dean, NY Office of Parks, Recreation, Advisory Council on Historic Preservation, and Historic Preservation, The Old Post Office Building, Suite 803, Peebles Island, PO Box 189, 1100 Pennsylvania Avenue, NW., Waterford, NY 12188–0189 Washington, DC 20004
William Slade, New York Power Authority, 123 Main Street, White Plains, NY 10601
Thomas Tatham, New York Power Authority, 123 Main Street, White Plains, NY 10601
Kevin Mendik, National Park Service, 15 State Street, Boston, MA 02109
Judith M. Stolfo, Department of the Interior, Office of the Regional Solicitor, One Gateway Center, Suite 612, Newton, MA 02458–2802
Dr. James Kardatzke, Eastern Region Office, Bureau of Indian Affairs, 711 Stewarts Ferry Pike, Nashville, TN 37214
Francis Boots, THPO, Saint Regis Mohawk Tribe, 412 State Route 37, Hogansburg, NY 13655
Salli Benedict, Henry Lickers, Mohawk Council of Akwesasne, PO Box 579, Cornwall, Ontario K6H 5T3
Maxine Cole, Akwesasne Task Force on the Environment, PO Box 992, Hogansburg, NY 13655
David Blaha, Environmental Resources Management, 2666 Riva Road, Suite 200, Annapolis, MD 21401
James Teitt, Environmental Resources Management, Northwoods II, Suite 30, 8101 N. High Street, Columbus, OH 43235
Kimberly Owens
Mohawk Nation Council of Chiefs, 1849 C Street, NW. Washington, DC 20240, Department of the Interior, Box 366, Rooseveltown, NY 13683

Magalie R. Salas,

Secretary.

[FR Doc. 03–698 Filed 1–13–03; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2010.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7438–3]

Proposed Settlement Agreement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended, 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement in the following case: Communities for a Better Environment, *et al.* v. U.S. EPA, No. 02–70191 (9th Circuit). This case concerns the U.S. Environmental Protection Agency's (EPA) full approval of the part 70 operating permit program for the Bay Area Air Quality Management District in the State of California, published at 66 FR 63503 (December 7, 2001). The proposed settlement agreement was signed by the last party on January 7, 2003.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

DATES: Written comments on the proposed settlement agreement must be received by February 13, 2003.

ADDRESSES: Written comments should be sent to Paul Cort, Office of Regional Counsel, U.S. EPA (ORC–2), 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed settlement agreement is available on EPA's webpage at *http://www.epa.gov/region09/air/index.html.* You may also obtain a copy from David Wampler, Region IX Air Permits Office, U.S. EPA (AIR–3), 75 Hawthorne Street, San Francisco, CA 94109, (415) 972–3975.

SUPPLEMENTARY INFORMATION: EPA granted full approval of the 34 California part 70 operating permit programs (also known as ''title V'' permit programs) on November 29, 2001. 66 FR 63503 (December 7, 2001). Communities for a Better Environment and Our Children's Earth Foundation filed petitions challenging EPA's approval of the Bay Area Air Quality Management District (''BAAQMD'' or ''District'') part 70 program. Petitioners alleged deficiencies in the District's program related to the exemption for portable equipment and the definition of ''administrative permit amendment.'' The parties engaged in settlement discussions and entered the Ninth Circuit Mediation Program.

The proposed settlement agreement outlines rulemaking actions and deadlines to be met by the District. If the District fails to take any of the outlined actions or fails to meet any of the specified deadlines, the settlement agreement provides that EPA will send a proposed Notice of Deficiency (NOD) for publication to the Office of the Federal Register no later than 30 days from the relevant deadline. After considering comment on the proposed NOD, EPA shall forward to the Office of Federal Register a final rulemaking on the NOD within 90 days after publication of the proposal.

As appropriate, the proposed NOD will inform the District that the portable engine exemption in BAAQMD Rule 2–6–113 must be revised to be consistent with the term ''stationary source'' as it is defined in the Clean Air Act, 42 U.S.C. 7602(z), and EPA's implementing regulations, 40 CFR 70.2, as well as the definition of ''nonroad engine'' at 40 CFR 89.2. In addition, if applicable, the notice of proposed rulemaking shall inform the District that the definition of ''administrative permit amendment'' in BAAQMD Rule 2–6–201 must be revised to be consistent with the definition of ''administrative permit amendment'' set forth in 40 CFR 70.7(d)(i)—(iv).

Dated: January 7, 2003.

Lisa K. Friedman,

Associate General Counsel, Air and Radiation Law Office.

[FR Doc. 03–738 Filed 1–13–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0359; FRL–7286–5]

Modified Acrylic Polymer; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2002–0359, must be received on or before February 13, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Treva C. Alston, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8373; e-mail address: alston.treva@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311
- Pesticide manufacturing (NAICS code 25532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket ID number OPP–2002–0359. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although, a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the

collection of materials that are available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although, not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although, not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties, or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2002–0359. The system is an ''anonymous access'' system, which means, EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID number OPP–2002–0359. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2002–0359.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID number OPP–2002–0359. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim

information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 2, 2003.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(d)(3). The summary of the petition was prepared by Alco Chemical, and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues, or an explanation of why no such method is needed.

Alco Chemical

PP 3E6539

EPA has received a pesticide petition ([3E6539]) from Alco Chemical, 909 Mueller Drive, Chattanooga, TN 37406–0401 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to revise an existing exemption from the requirement of a tolerance for modified acrylic polymers located in 40 CFR 180.960 EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The existing tolerance exemption reads as follows: Acrylic polymers composed of one or more of the following monomers: Acrylic acid, methyl acrylate, ethyl acrylate, butyl acrylate, hydroxyethyl acrylate, hydroxypropyl acrylate, hydroxybutyl acrylate, carboxyethyl acrylate, methacrylic acid, methyl methacrylate, ethyl methacrylate, butyl methacrylate, isobutyl methacrylate, hydroxyethyl methacrylate, hydroxypropyl methacrylate, hydroxybutyl methacrylate, lauryl methacrylate, and stearyl methacrylate; with none and/or one or more of the following monomers: Acrylamide, N-methyl acrylamide, N-octylacrylamide, maleic anhydride, maleic acid, monoethyl maleate, diethyl maleate, monooctyl maleate, dioctyl maleate; and their corresponding sodium potassium, ammonium, isopropylamine, triethylamine, monoethanolamine, and/or triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu), 1,200. No CAS registry number is associated with the exemption.

Alco Chemical Company is requesting that the exemption be revised to include N,N-dimethyl acrylamide by inserting N,N-dimethyl acrylamide between N-methyl acrylamide and N-octyl acrylamide.

Magnitude of residues. Alco is petitioning for an exemption from the requirement of a tolerance based upon the polymer's compliance with the Low Risk Polymer criteria per 40 CFR 723.250. Therefore, an analytical method to determine residues in raw agricultural commodities has not been proposed. No residue chemistry data or environmental fate data are presented in the petition as the Agency does not generally require some or all of the listed studies to rule on the exemption from the requirement of a tolerance for a low risk polymer inert ingredient.

A. Toxicological Profile

The Agency has established a set of criteria which identifies categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances, as well as, polymers that typically are not readily absorbed. Alco believes that N,N-dimethyl acrylamide acrylic acid polymers conform to the definition of a polymer given in 40 CFR 723.250 and meets the criteria used to identify a low risk polymer. Alco also believes that based on this substance's conformance to the above mentioned criteria, no mammalian toxicity is anticipated from dietary, inhalation or dermal exposure to emulsion polymers and that emulsion polymers will present minimal or no risk.

1. This polymer is not a cationic substance.

2. It contains as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. It does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(2)(ii).

4. This polymer is not designed or reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. It is not manufactured or imported from monomers and/or other reactants that are not already on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA Section 5 exemption.

6. It is not a water absorbing polymer.

7. The minimum average molecular weight of the above mentioned polymer is greater than 10,000. Substances with molecular weights greater than 400 are generally not readily absorbed through the intact skin, and substances with molecular weights greater than 1,000 are generally not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the GI tract are generally incapable of eliciting a toxic response. This polymer has an oligomer content less than 2% below MW 500 and less than 5% MW 1,000.

Alco believes sufficient information was submitted in the petition to assess the hazards of the N,N-dimethyl acrylamide acrylic acid polymer. No toxicology data were presented in the petition as the Agency does not generally require some or all of the listed studies to rule on the exemption from the requirement of a tolerance for an inert ingredient. Based on this polymer's conforming to the definition of a polymer and meeting the criteria of a low risk polymer under 40 CFR 723.250, Alco believes there are no concerns for risks associated with toxicity.

8. *Endocrine disruption*. There is no evidence that the polymer is an endocrine disrupter. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

B. Aggregate Exposure

1. *Dietary exposure*. Some modified acrylic polymers may be used in contact with food as components of containers used to manufacture, process, or store food when regulated for such use under the FFDCA. Modified acrylic polymers with a molecular weight greater than 1,000 daltons are not readily absorbed through the intact gastrointestinal tract and are considered incapable of eliciting a toxic response.

2. *Non-dietary exposure*. Typical uses of modified acrylic polymers are in the inks and coatings and industrial water treatment industries. In these uses the primary exposures are dermal, however, modified acrylic polymers with a molecular weight significantly greater than 400 are not readily absorbed through the intact skin and are considered incapable of eliciting a toxic response.

C. Cumulative Effects

There is data to support a conclusion of negligible cumulative risk for modified acrylic polymers. Polymers with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response. Therefore, there is no reasonable expectation of increased risk due to cumulative exposure. Based on this polymer conforming to the definition of a polymer and meeting the criteria of a low risk polymer under 40 CFR 723.250, Alco believes there are no concerns for risks associated with cumulative effects.

[FR Doc. 03–739 Filed 1–13–03; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7438–9]

Innovative Technologies for Remote Collection of Data for the National Children's Study; Notice: Request for Information

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for information for Innovative Technologies for Remote Collection of Data for the National Children's Study.

SUMMARY: This request for information from the National Center for Environmental Assessment, Office of Research and Development for Innovative Technologies for Remote Collection of Data for the National Children's Study is for state-of-the-art technology (currently available and those possible in the future) to enhance data collection for this longitudinal study currently being planned by a coalition of federal agencies. This request for information (RFI) is intended strictly for market research purposes and may not lead to a solicitation or contract.

The National Children's Study (NCS) is a large long-term study of environmental influences on children's health and development. This study will explore a broad range of environmental factors, both helpful and harmful, that influence the health and well-being of children. For this study, environment is broadly defined to include chemical, physical, social, and behavioral influences on children, and to better understand the role of these factors on health and disease. More information on the NCS is available at *http://www.NationalChildrensStudy.gov*.

In initial discussions, the NCS Technology Group, consisting of technology experts within the federal government, has highlighted the utility of remote collection of data for longitudinal studies. Approaches identified include the use of Personal Digital Assistant (PDA), wireless technology, the Internet, and other technologies currently in development for collection of data between in-person visits/appointments. The three major areas discussed include: (1) Collection of questionnaire data (*e.g.*, diaries, symptom check lists, information on doctor's visits, and medications); (2) measurement and transmittal of environmental measurements (*e.g.*, devices that measure indoor or outdoor air quality, store the data over time, and transmit it to a central data location either by phone hook-up or wireless technology; devices used that collect samples, *e.g.*, dust or volatile organic compounds that can be sent to laboratories for analysis; and Global Positional System (GPS) devices that would transmit location for use in Geographic Information Systems (GIS) analyses); and (3) measurement and transmittal of health/biological measurements such as physiological measures (*e.g.*, blood pressure, heart rate, and weight).

The information provided as a response to this RFI will be included with background material in a meeting being planned to discuss these issues. Presentations and discussions during this workshop will identify the most promising and urgent of the above issues, identify existing technology that could be used or adapted for use, along with a discussion of security and confidentiality. For example, regardless of the study design, use of remote technologies for collection of questionnaire data will be a data collection method implemented from the beginning of the study. Other items will be ranked by urgency and amount of lead time needed for development. Part of this exercise would be the identification of pros and cons of the proposed technology.

The government is also seeking information from hardware and software

vendors to ensure that all available commercial-off-the-shelf (COTS) products that provide capabilities applicable to the NCS have been identified. All manufacturers and suppliers of appropriate technology that could be applied to support the NCS are offered this opportunity to describe how the government can best employ their products to meet the NCS mission needs.

In addition to currently available products, the government wants to understand the capabilities of leading-edge products currently under development that will be available by mid Fiscal Year 2004. The information submitted will be used to assist the government in the continuing development of its NCS implementation strategy.

This RFI is the first of several steps to solicit input and interest from the vendor community and to promote competition in response to needed technology for the NCS. We expect to issue other RFIs as planning evolves.

DATES: Information should be submitted via website not later than January 31, 2003, to *http://www.NationalChildrensStudy.gov.* Responses submitted after this date will not be accepted. The government will not request additional information or discuss submissions received in response to this RFI with individual responders.

ADDRESSES: Submit responses to *NCS.Technology@epa.gov (http://www.NationalChildrensStudy.gov).* Responses are limited to a total of 20 pages, and in WordPerfect or Microsoft Word. Page size must be 8.5 × 11'', font must be 12 point or larger, and margins must be at least 1 inch. Briefly describe your product, the company that produces it, and the company's other products, services, history, ownership, and information you deem relevant. Provide points of contact for the product, including name, address (also include web address, if available), phone/fax number, and email address. Discuss technical feasibility alternatives and provide nonbinding order-of-magnitude cost and estimates of developmental time for the alternatives. Hardware and software vendors should submit a concept paper describing how the product could meet potential NCS needs. Indicate whether your product is commercially available or is on the General Services Administration Federal Supply Schedule. Supplemental product brochures or marketing materials outlining specifications and capabilities also may be submitted, and will not be counted in the overall page count limits.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Sherry G. Selevan, Ph.D.; mailing address: National Center for Environmental Assessment-Washington (8623D), U.S. Environmental Protection Agency, Washington, DC 20460; telephone: 202–564–3312; facsimile: 202–565–0078; e-mail: *selevan.sherry@epa.gov.*

SUPPLEMENTARY INFORMATION:

Disclaimer

This RFI is issued for information and planning purposes only and does not constitute a solicitation. The government does not intend to award a contract on the basis of this RFI or to otherwise pay for information received in response to this RFI. Responses to the RFI will not be returned, and because they will be available for background material for a workshop, submission will not be treated as proprietary. Information provided in response to this RFI will be used to assess tradeoffs and alternatives available for determining how to proceed in the planning process for the NCS and may lead to the development of a specification for the NCS. In accordance with FAR 15.201(e), responses to this RFI are not offers and cannot be accepted by the government to form a binding contract. Responders are solely responsible for all expenses associated with responding to this RFI.

Dated: January 3, 2003.

George Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 03–735 Filed 1–13–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7438–4]

Koppers Charleston Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of modified proposed settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into an Administrative Settlement with Beazer East, Inc. for response costs pursuant to section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9622(h)(1) concerning the Koppers Charleston Superfund Site (Site) located in Charleston, Charleston County, South Carolina. EPA will consider public comments on the modified proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U. S. EPA, Region 4, (WMD–CPSB), 61 Forsyth Street, SW, Atlanta, Georgia 30303, (404) 562–8887.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

Dated: December 23, 2002.

James T. Miller, Acting Chief,

CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 03–737 Filed 1–13–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7438–6]

Clean Water Act Section 303(d): Notice Final Agency Action Withdrawing of 1 Total Maximum Daily Load (TMDL)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of 1 TMDL.

Subject: This notice announces EPA final action withdrawing of the TMDL for atrazine in the water column that EPA established pursuant to the Clean Water Act (''CWA'') section 303(d), for Louisiana subsegment 080903, Big Creek from the confluence with the Boeuf River to the headwaters (including Big Colewa Bayou). EPA is withdrawing this TMDL because the draft criteria value for atrazine used in screening the waterbody to determine whether it meets Louisiana water quality standards and for calculation of allowable load allocations was draft only and had not been through the complete public notice process and had not been finalized. In place of the draft atrazine criteria number of 12 µg/l, EPA is establishing a screening value of 36 µg/l as calculated by one possible procedure found in Louisiana water quality standards (LAC 33:IX,1113.C.6). Based on this new screening value of 36 µg/l, Big Creek is not, and was not at the time EPA established this TMDL, impaired by atrazine and should not be listed on Louisiana's current CWA

section 303(d) list for atrazine. Thus, EPA is withdrawing this TMDL.

Background: EPA established this atrazine TMDL under CWA section 303(d) on February 28, 2001, to satisfy a consent decree obligation in the lawsuit styled *Sierra Club* v. *Clifford,* Civ. No. 96–0527 (E.D. La.). The Waterbody subsegment 080903, Big Creek from the confluence with the Boeuf River to the headwaters (including Big Colewa Bayou) was listed on the Louisiana Section 303(d) list of impaired waters as impaired due to pesticides, under the ''no toxics in toxic amounts'' narrative Louisiana water quality standard (LAC 33:IX,1113.B.5).

Since the State of Louisiana does not have a numeric water quality criterion for the protection of aquatic life for atrazine, EPA derived a numeric interpretation of the State of Louisiana's narrative water quality criterion for toxic substances using EPA's Draft Criteria Document for atrazine (Ambient Aquatic Life Water Quality Criteria for Atrazine—Draft, EPA 822–D–010002, August 2001) and used that interpretation as the basis for establishing the Big Creek TMDL for atrazine.

During the comment period for this TMDL, commenters submitted information stating that under Louisiana water quality standard provisions (LAC 33:IX,1113.C.6) it was not appropriate to use a draft criterion document value and that the Louisiana procedures should be used. EPA has evaluated these comments and has concluded that using the calculation procedure found in the Louisiana water quality standards provisions is more appropriate for establishing a screening value for atrazine in this particular case. Based on its modification of the screening value used for interpretation of Louisiana's narrative water quality criterion of ''no toxics in toxic amounts,'' EPA concluded that the applicable water quality standard for the Big Creek is not, and was not at the time EPA established this TMDL, exceeded for atrazine in the water column.

Therefore, in the exercise of its discretion, EPA is withdrawing the Big Creek TMDL established in February 2001 for atrazine. Because Big Creek is not listed for atrazine on the Louisiana 303(d) list, LDEQ has no present obligation under the CWA to submit to EPA a TMDL for atrazine for Big Creek, nor does the CWA require EPA to maintain this TMDL. Three other TMDLs for Big Creek, DDT, carbofuran, and methyl parathion are not affected by this determination.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

Dated: December 20, 2002.

Jayne Fontenot,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 03–736 Filed 1–13–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 7, 2003.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Forest Merger Corporation and FBR TRS Holdings, Inc., both in Arlington, Virginia; to become bank holding companies by merging with Friedman, Billings, Ramsey Group, Inc., and FBR Asset Investment Corporation, both in Arlington, Virginia, and thereby indirectly acquiring FBR Bancorp, Inc., Arlington, Virginia, and FBR National Bank and Trust, Bethesda, Maryland. After the merger, Applicants would be renamed Friedman, Billings, Ramsey Group, Inc.

Applicants also have applied to acquire indirectly more than 5 percent of the voting shares of Pacific Credit Capital, Inc., and its subsidiary Pacific Crest Bank, both in Agoura Hills, California; Hingham Institution for Savings, Hingham, Massachusetts; ITLA Capital Corporation, and its subsidiary, Imperial Capital Bank, both in La Jolla, California.

Applicants also have applied to acquire indirectly more than 5 percent of the voting shares of Quaker City Bancorp, Inc., and its subsidiary, Quaker City Bank, both in Whittier, California; and First Bell Bancorp, Inc., Pittsburgh, Pennsylvania, and its subsidiary Bell Federal Savings and Loan Association, Bellevue, Pennsylvania, and thereby engage in operating savings associations, pursuant to § 228.25(b)(4) of Regulation Y.

2. MountainBank Financial Corporation, Hendersonville, North Carolina; to merge with Cardinal Bankshares Corporation, Floyd, Virginia, and thereby indirectly acquire voting shares of The Bank of Floyd, Floyd, Virginia.

3. MountainBank Financial Corporation, Hendersonville, North Carolina; to merge with CNB Holdings, Inc., Pulaski, Virginia, and thereby indirectly acquire voting shares of Community National Bank, Pulaski, Virginia.

Board of Governors of the Federal Reserve System, January 8, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–670 Filed 1–13–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Consumer Advisory Council

On January 3, 2003, the Federal Reserve Board named ten new members to its Consumer Advisory Council for three–year terms and designated a new Chair and Vice Chair of the Council for 2003.The Council advises the Board on the exercise of its responsibilities under the Consumer Credit Protection Act and on other matters in the area of consumer financial services. The Council meets three times a year in Washington, D.C.

Ronald Reiter was designated Chair; his term runs through December 2003. Mr. Reiter is Supervising Deputy Attorney General for the California Department of Justice.

Agnes Bundy Scanlan was designated Vice Chair; her term on the Council

ends in December 2004. Ms. Scanlan is Managing Director and Chief Compliance Officer for FleetBoston Financial.

The ten new members are:

Susan Bredehoft
Cherry Hill, New Jersey

Ms. Bredehoft is Senior Vice President for Compliance Risk Management for Commerce Bancorp. She has responsibility for developing and implementing the compliance risk management program for consumer protection and disclosure regulations, privacy, fair lending, community reinvestment, and anti–money laundering regulations. Previously, Ms. Bredehoft was Senior Vice President and Director of Compliance for Summit Bancorp, where she managed the community reinvestment and compliance programs. She has spoken on community development, fair lending, compliance, and audit topics. Ms. Bredehoft is the Chair of the Finance and Audit Committee for the New Jersey Community Loan Fund, serves on the Compliance Committee of the New Jersey Banker's Association, and is a Trustee of St. Peter's College in Jersey City, N.J.

Dan Dixon
Washington, District of Columbia

Mr. Dixon is Group Senior Vice President and Director of Government Relations for World Savings Bank, FSB. During his career at World, his responsibilities have included mortgage loan origination and servicing, customer relations, regulatory compliance, and community outreach. In addition, Mr. Dixon serves on the Board of Neighborhood Housing Services of America, Inc. (NHSA), a national non–profit secondary mortgage market intermediary. For six years, he was Chairman of NHSA. At NHSA, he supported introduction of a new loan product for low–income borrowers with funding from the Federal Home Loan Bank Affordable Housing Program. Mr. Dixon previously served on the Board of East Bay Habitat for Humanity in Oakland, CA.

James Garner
Tampa, Florida

Mr. Garner is Senior Vice President and Associate General Counsel for Washington Mutual Inc., an organization providing consumer banking, mortgage lending, commercial banking, and consumer financial services. Mr. Garner leads a group of attorneys and manages the consumer finance company subsidiary's compliance department. He recently participated in the development of Responsible Mortgage Lending Principles for the organization and participates in the company's Fair Lending Steering and the Public Policy Issues Management committees. Mr. Garner also works on a pilot program to move subprime customers into the organization's prime lending segment and regularly meets with consumer advocate groups to discuss predatory lending and responsible lending practices. Mr. Garner chairs a subcommittee for the Law Committee of the American Financial Services Committee and is an officer and member of the Governing Committee on the Conference on Consumer Finance Law.

Charles Gatson
Kansas City, Missouri

Mr. Gatson is Vice President of Midtown Community Development Corporation doing business as Community Builders of Kansas City, an affiliate of Model Cities Health Corporation, an organization that provides innovative social, health–care, and community economic development services to the urban community. Mr. Gatson directs the corporation's community economic development efforts that include a $100 million urban revitalization program in Kansas City's urban core. The program includes a health–care facility, single and multi–family housing and an 85,000 square foot H & R Block customer service center in a predominantly African American community. Mr. Gatson is a member of many civic organizations, including the Urban League of Greater Kansas City, the Urban Land Institute's Inner City Advisor Coordinating Committee, and Fannie Mae's Housing Impact Advisory Committee. In 2002, he received the James A. Johnson Community Fellows Award from the Fannie Mae Foundation.

James King
Cincinnati, Ohio

Mr. King is President and Chief Executive Officer of the Community Redevelopment Group in Cincinnati. His responsibilities include administering the day–to–day operations of residential and commercial development and construction, marketing and management for two community development corporations, the Avondale Redevelopment Corporation and the Walnut Hills Redevelopment Foundation. Mr. King is a member of several community organizations including the City of Cincinnati Economic Development Task Force, the National Congress for Community Economic Development, and the Neighborhood Development Corporations Association of Cincinnati. He is also co–chair of Cincinnati CAN (Community Action Now) and a member of The Federal Home Loan Bank of Cincinnati Advisory Council and the Cincinnati Park Board Master Plan Advisory Committee. In 2001, Mr. King received the James A. Johnson Community Fellow award from the Fannie Mae Foundation.

Elsie Meeks
Kyle, South Dakota

Ms. Meeks is the Executive Director of First Nations Oweesta Corporation, a subsidiary corporation of First Nations Development Institute. The corporation focuses on enhancing the capacity of Native American tribes and communities by providing technical assistance and training for the development and expansion of Native American community development financial institutions. Previously, Ms. Meeks helped develop and was Executive Director of The Lakota Fund, which is a Native American community development financial institution on the Pine Ridge Indian Reservation in southwestern South Dakota, specializing in small business development and microenterprise development. Ms. Meeks is a board member of the National Community Capital Association, and, in 1994, received the ''South Dakota Minority Small Business Advocate of the Year'' award. She was appointed by Senate Majority Leader Tom Daschle to serve as the first Native American on the U.S. Commission on Civil Rights.

Mark Pinsky
Philadelphia, Pennsylvania

Mr. Pinsky is President and Chief Executive Officer of the National Community Capital Association, a leading network of community development financial institutions (CDFIs). He is responsible for the association's strategic direction and performance and has created new products including the Equity Equivalent Investment and the Virtual Learning Center. Mr. Pinsky is widely recognized as the voice of the CDFI industry and the leading advocate for a strong, performance–based CDFI Fund in the U.S. Department of Treasury. He has published and lectured extensively on CDFI's and the Community Reinvestment Act. In 2002, he provided the keynote address at the 3rd Annual UK Community Development Finance Conference in Scotland and spoke on ''Lessons from the U.S. CDFI Industry.''

Benjamin Robinson
Charlotte, North Carolina

Mr. Robinson has been Senior Vice President, Strategy Management Executive, responsible for issues management, national alliances, and national programs for Bank of America since October 2002. Previously, he was

Vice President and Chief Privacy Officer of MasterCard International, and President and Chief Executive Officer, MasterCard Cardholder Solutions, Inc. His responsibilities included overall management of MasterCard Cardholder Solutions, Inc. and managing and implementing privacy policies, regulations, and compliance for MasterCard International domestically and abroad. Mr. Robinson has also served as a congressional advisor on banking issues including the Community Reinvestment Act, Equal Credit Opportunity Act, Home Mortgage Disclosure Act, and Fair Housing Act for a subcommittee of the U.S. House of Representatives' Committee on Banking, Finance, and Urban Affairs.

Diane Thompson
East St. Louis, Illinois

Ms. Thompson is a Supervising Attorney for the Housing and Consumer Rights Unit at the Land of Lincoln Legal Assistance Foundation. She supervises consumer rights litigation and works with community organizations on affordable housing and community economic development. She also supervises comprehensive homeless advocacy and homeless prevention projects in one of the poorest and most economically depressed cities in the country. She has expertise in the Truthin–Lending and Home Ownership and Equity Protection Acts and is an experienced anti–predatory lending advocate and litigator in the St. Louis area. Mrs. Thompson is involved in several community activities, including the Metropolitan St. Louis Equal Housing Opportunity Council and Project Kids, Inc.

Clint Walker
Wilmington, Delaware

Mr. Walker is the General Counsel and Chief Administrative Officer of Juniper Financial Corporation, established in 2000. Mr. Walker is part of the founding team of the credit card bank which is based on the concept of applying the best practices of a traditional credit card business with the best aspects of electronic banking to create an innovative and improved customer experience. His responsibilities include legal, compliance, regulatory and legislative activities, the Community Reinvestment Act, and community affairs. Prior to his position at Juniper, Mr. Walker was General Counsel at both First USA Bank, N.A. and Citibank Maryland. He has extensive experience in both the credit card industry and emerging e–commerce financial applications.

Council members whose terms continue through 2003 are:

Anthony Abbate
President and Chief Executive Officer
Interchange Bank
Saddle Brook, New Jersey

Manuel Casanova, Jr.
Executive Vice President
International Bank of Commerce
Brownsville, Texas

Constance K. Chamberlin
President and Chief Executive Officer
Housing Opportunities Made Equal
Richmond, Virginia

Earl Jarolimek
Vice President/CorporateCompliance Officer
Community First Bankshares
Fargo, North Dakota

J. Patrick Liddy
Director of Compliance
Fifth Third Bancorp
Cincinnati, Ohio

Oscar Marquis
Attorney
Hunton and Williams
Park Ridge, Illinois

Elizabeth Renuart
Staff Attorney
National Consumer Law Center
Boston, Massachusetts

Council members whose terms continue through 2004 are:

Janie Barrera
President and Chief Executive Officer
ACCION Texas
San Antonio, Texas

Ken P. Bordelon
Chief Executive Officer
E Federal Credit Union
Baton Rouge, Louisiana

Robin Coffey
Vice President
Harris Trust and Savings Bank
Chicago, Illinois

Thomas FitzGibbon
Senior Vice President
MB Financial Bank, N.A.
Chicago, Illinois

Larry Hawkins
President and Chief Executive Officer
Unity National Bank
Houston, Texas

Ruhi Maker
Senior Attorney
Public Interest
Law Office of Rochester
Rochester, New York

Patricia McCoy
Professor of Law
Department of Economics
Massachusetts Institute of Technology
Cambridge, Massachusetts

Debra S. Reyes
President
Neighborhood lending Partners, Inc.
Tampa, Florida

Benson Roberts
Vice President for Policy
Local Initiatives Support Corporation
Washington, District of Columbia

Hubert Van Tol
Co–Director
Fairness in Rural Lending
Sparta, Wisconsin

Board of Governors of the Federal Reserve System, January 8, 2003.

Jennifer J. Johnson,
Secretary of the Board.

[FR Doc. 03–671 Filed 1–13–03; 8:45 am]
BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day 03–35]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman , CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Menthol Crossover Study—New—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC). CDC proposes a study to measure differences in African-American and Caucasian smokers in the dose and metabolism of chemicals in smoke from menthol and non-menthol cigarettes.

African-American smokers are more likely than Caucasian smokers to

develop some forms of cancer and to have shorter long-term survival after diagnosis. More than 65% of African American smokers smoke menthol cigarettes, compared with about 23% of white smokers. Smoking menthol cigarettes has been associated with higher blood-cotinine levels. Cotinine is a product of the metabolism of nicotine, and the higher cotinine levels suggest that menthol may enable a smoker to obtain more nicotine from each cigarette. In addition, people who smoke menthol cigarettes also have higher levels of carbon monoxide in their breath than do people who smoke non-menthol cigarettes, and an elevated carbon monoxide level is a risk factor for cardiovascular disease. Additionally, the presence of menthol in cigarettes may change the way people smoke cigarettes.

All previous studies have compared people who smoke menthol cigarettes with those who smoke non-menthol cigarettes; and it is not known whether increased cotinine and carbon monoxide levels in people who smoke menthol cigarettes are attributable to racial or ethnic differences, or a combination of multiple factors. In addition, no previous study has examined the differences between urinary levels of cancer-causing chemicals in people who smoke menthol or non-menthol cigarettes and correlated these findings with smoke exposure intake estimates using salivary cotinine and filter solanesol.

For this two-part crossover study, we will recruit African-American and Caucasian smokers of both sexes who smoke either menthol or non-menthol cigarettes as study subjects. We will determine smoking history then randomly assign each participant to smoking either menthol or non-menthol cigarettes for an initial 2-week period. Study participants then will switch to the opposite type of cigarette for the next 2 weeks. At baseline, and after each 2-week period, we will measure the way the participants smoke the test cigarettes to determine smoking topography. Saliva, urine, and breath samples will be collected to measure by-products of smoking, and participants will complete a brief smoking-history questionnaire. There is no cost to respondents.

Forms	No. of respondents	No. of responses/respondent	Average burden/response (in hours)	Total burden in hours
Response to Flyer: Screening Interview Form	200	1	5	17
Site Visits: Check in Study Information—Visit 1, 2, 3	71	3	15	53
Consent Form Questionnaire—Visit 1, 2, 3	71	3	15	53
Urine Sample and Saliva Sample—Visit 1, 2, 3	71	3	15	53
Breath Carbon monoxide (CO) Sample—Test Smoke 1, Breath CO Sample, Breath CO Sample, Test Smoke 2, Breath CO Sample—Visit 1, 2, 3	71	3	45	160
Sample Test—Cigarettes Distribute Baggies & Cigarettes—Visit 1, and 2	71	2	15	36
Instructions and Check out—Visit 1 and 2	71	2	15	36
Smoking Cessation Advice—Visit 3 only	71	1	15	18
Final Check Out—Visit 3 only	71	1	15	18
Total				444

Dated: January 8, 2003.

Thomas Bartenfeld,

Acting Associate Director for Policy, Planning, and Evaluation Centers for Disease Control and Prevention.

[FR Doc. 03–674 Filed 1–13–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

[OMB #0925–0479]

Proposed Collection; Comment Request; Evaluation of the NIDCD Partnership Program

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute on Deafness and Other Communication Disorders (NIDCD), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Evaluation of the NIDCD Partnership Program. *Type of Information Collection Request:* EXTENSION. *Need and Use of Information Collection:* The NIDCD was established to support biomedical and behavioral research and research training in hearing, smell, balance, taste, voice, speech and language. Although minorities and women will dominate the work force within the next decade, both groups are underrepresented in the science and health professional field. Because of this concern, the NIDCD, with assistance from the Office of Research on Minority Health, established the Partnership Program in 1994 to increase the number of minority scientists and health care professionals doing research on communication and communication disorders. The proposed survey will yield data about: (1) Reasons for participation in the program; (2) satisfaction of participants with the program and (3) how participation in the program has lead to the pursuit of a career in the health field. This survey will track the Partnership Program's success at increasing the number of women and minorities who are scientists. *Frequency of Response:* One. *Affected Public:* Individuals. *Type of Respondent:* Partnership Program Participants. The annual reporting burden is as follows: *Estimated Number of Respondents:* 76; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* 0.5; and *Estimated Total Annual Burden Hours Requested:* 38. The annualized cost to respondents is estimated at: $380. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Note: The following table is acceptable for the Respondent and Burden Estimate Information, if appropriate, instead of the text as shown above.)

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Initial program participant survey	16	1	0.5	8
Follow up survey of participant	60	1	0.5	30
Total	76	.....	.....	38

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for fulfillment of the NIDCD mission, including whether the information will have practical utility; (2) the accuracy of the estimate of the burden of the proposed data collection, including the validity of the methodology; (3) ways to enhance the quality, utility, and clarity of the data collection and (4) ways to minimize the burden of the collection of information on the respondents, including appropriate use of automated collection techniques and information technology.

FOR FURTHER INFORMATION: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Ms. Kay Johnson Graham, EEO Officer, Office of Equal Employment Opportunity, NIDCD, NIH, Building 31, Room 3C08, 31 Center Drive, Bethesda, MD 20892, or call non-toll-free number (301) 496–3403 or E-mail your request, including your address to: *johnsonk@ms.nidcd.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

SUPPLEMENTARY INFORMATION: Under the PRA, (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to provide a 60-day notice in the Federal Register concerning proposed collections of information before submitting the collection to OMB for approval. To comply with this requirement, NIDCD is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, NIDCD invites comments on: (1) Whether the proposed collection of information is necessary for fulfillment of the NIDCD mission, including whether the information will have practical utility; (2) the accuracy of the estimate of the burden of the proposed data collection, including the validity of the methodology; (3) ways to enhance the quality, utility, and clarity of the data collection; and (4) ways to minimize the burden of the collection of information on the respondents, including appropriate use of automated collection techniques and information technology.

The NIDCD Partnership Program was designed to maximize research and research training opportunities for undergraduates, graduate and professional students, and faculty from populations that are underrepresented in the biomedical professions. Participants are recruited from four academic institutions that developed partnerships with the NIDCD: The University of Alaska System, The Atlanta University Center, Gallaudent University, and the University of Puerto Rico.

Anecdotal feedback indicates that program participants, mentors, and liaisons find the program to provide interesting and unique opportunities. However, there is little systematic evidence evaluating the level of the Program's success or failure. The proposed surveys will attempt to assess how participants' experiences with the Partnership Program have influenced career and educational choices; current activities of participants (*e.g.,* courses of study, jobs); benefits and costs of program participation to the program participants, mentors, and liaisons; and suggestions for improving the Program. This information, will provide concrete evidence for continued funding of the Program.

Two separate surveys are proposed. The first survey will collect baseline information from participants as they enter the program. The baseline survey will explore participants' expectations and goals on entering the program, their current career and/or educational plans, and reasons for choosing to participate. The second survey will gather Follow up and tracking information of past participants and will be administered annually. This survey will ask about current contact information, current career educational activities, satisfaction with the program, and whether expectations were met.

Potential respondents of either survey will be asked to participate in a telephone survey that should take less than 30 minutes to complete. Respondents who cannot schedule 30 minutes of time or have communications disorders which make telephone conversations difficult will be given the opportunity to respond by alternate means such as fax and e-mail. All participants from the inception of the program will be included in this evaluation process. Participants for 1999 have not yet been chosen, but it is anticipated that the total number of participants since 1994 will not exceed 70.

Dated: January 6, 2003.

David Kerr,

Executive Officer, NIDCD.

[FR Doc. 03–716 Filed 1–13–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Clinical Research.

Date: January 14–15, 2003.

Time: January 14, 2003, 8 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: The Inn Chase Park Plaza, 212–232 N. Kingshighway Blvd., St. Louis, MO 63108.

Contact Person: John L. Meyer, Ph.D., Deputy Director, Office of Review, National Center for Research Resources, National Institutes of Health, 6705 Rockledge Drive, MSC 7965, One Rockledge Centre, Room 6018, Bethesda, MD 20892–7965, 301–435–0806, meyerj@ncrr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: January 7, 2003.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–720 Filed 1–13–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Stem Cell.

Date: January 24, 2003.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Scientific Review Office, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 21754, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Ph.D., National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, ACTIVE-PHASE II.

Date: January 29, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Ave., Gateway, 7201 Wisconsin Ave., 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Ph.D., National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, Dysfunctional Mitochondria of Aging.

Date: January 30–31, 2003.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Arthur D. Schaerdel, DVM, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 6, 2003.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–717 Filed 1–13–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel, Otitis Media.

Date: February 10, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contract Person: Ali A. Azadegan DVM, Ph.D., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD, NIH, EPS–400C, 6120 Executive Blvd MSC 7180, Bethesda, MD, 20892–7180, (301) 496–8683, *azadegan@nih,gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: January 7, 2003.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–718 Filed 1–13–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee,

Date: January 28–30, 2003.

Time: January 28, 2003, 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel, Monterey, Two Portola Plaza, Monterey, CA 93940.

Time: January 29, 2003, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel, Monterey, Two Portola Plaza, Monterey, CA 93940.

Time: January 30, 2003, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel, Monterey, Two Portola Plaza, Monterey, CA 93940.

Contact Person: Nancy B. Saunders, Ph.D., Scientific Review Administrator, Division of Extramural Activities, NIAID, NIH, Scientific Review Program, Room 2217, 6700–B Rockledge Drive, NSC 7616, Bethesda, MD, 20892–7616, 301–496–2550, *ns120v@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 7, 2003.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–719 Filed 1–13–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Anxiety Intervention.

Date: February 4, 2003.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David I. Sommers, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Eating Disorder Intervention.

Date: February 6, 2003.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David I. Sommers, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Initial Review Group, Interventions Research Review Committee.

Date: February 11–12, 2003.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: David I. Sommers, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 7, 2003.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–721 Filed 1–13–03; 8:45 am]

BILLING CODE 4140–01–NN

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Respiratory pathogens Reference Laboratory Support.

Date: February 7, 2003.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700 B Rockledge Drive, NIH/NIAID, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Paula S. Strickland, Ph.D., scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 7, 2003.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–722 Filed 1–13–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases, Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Emphasis Panel, CIPRA Multi-Project Research Grant Program.

Date: February 4, 2003.

Time: 10:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Roberta Binder, Ph.D., Scientific Review Administrator, Division of Extramural Activities, NIAID, 6700B Rockledge Drive, Rm 2155, Bethesda, MD, 20892, 301–496–7966, *rb169n@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 7, 2003.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–723 Filed 1–13–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Emphasis Panel, Basic and Clinical Studies of Anterior Eye Diseases.

Date: January 15, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 1, 1 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Custer, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 7, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–724 Filed 1–13–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–913–1630–PD]

Notice of Final Supplementary Rules for Public Land Administered by the Bureau of Land Management in Colorado Relating to the Unlawful Use of Alcohol by Underage Persons, Driving Under the Influence of Alcohol and/or Drugs, and Drug Paraphernalia Use and Possession on Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Final supplementary rules for public land within the State of Colorado.

SUMMARY: The Bureau of Land Management (BLM) is publishing supplementary rules to apply to the public lands within the State of Colorado. The rules relate to the illegal use of alcohol and drugs on the public lands. The BLM needs the supplementary rules to protect natural resources and the health and safety of public land users. These supplementary rules will allow BLM Law Enforcement Officers to enforce on public lands regulations pertaining to Alcohol and Drug laws in a manner consistent with current State of Colorado State laws as contained in the Colorado Revised Statutes.

EFFECTIVE DATE: February 13, 2003.

ADDRESSES: You may send inquiries or suggestions to Bureau of Land Management, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge, John Silence at (303) 239–3803.

SUPPLEMENTARY INFORMATION:

I. Discussion of the Supplementary Rules

These supplementary rules apply to all the public lands within the State of Colorado. In keeping with the BLM's performance goal to reduce threats to public health, safety, and property, these supplementary rules are necessary to protect the natural resources and to provide for safe public recreation and public health; to reduce the potential for damage to the environment; and to enhance the safety of visitors and neighboring residents. Alcohol-related offenses are a growing problem on the public lands. Unlawful consumption of alcohol and drugs, and abuses of alcohol and drugs, such as driving while under the influence, pose a significant health and safety hazard to all users and uses of the public lands and can result in the destruction of natural resources and property, and/or cause physical injury/death. In addition, drug-related offenses, including the possession of drug paraphernalia, result in the legitimization and encouragement of the illegal use of controlled substances by making the drug culture more visible and enticing. Further, the ready availability of drug paraphernalia tends to promote, suggest, or increase the public acceptability of the illegal use of controlled substances. In keeping with BLM's policy regarding the reduction of illegal use of controlled substances on public lands, and due to undesirable impacts on the public lands, the greatest of which is the threat to visitor safety and the safety of BLM employees, the BLM Colorado Law Enforcement Program will continue aggressive pursuit of ways to eliminate the possession, use, manufacturing, and trafficking of controlled substances, as well as the use and availability of drug paraphernalia on public lands, and will seek prosecution of those persons responsible for such activity. These supplementary rules allow BLM Law Enforcement Officers to enforce on public lands regulations pertaining to Alcohol and Drug laws in a manner patterning current State of Colorado State laws as contained in the Colorado Revised Statutes in an effort to further the working relationship and partnerships formed with numerous Sheriff's Departments throughout Colorado and the Colorado State Patrol.

II. Discussion of Public Comments

We received one comment on the proposed supplementary rules. This comment supported the proposed supplementary rules without change. Therefore, we are publishing the final supplementary rules without substantive changes.

III. Procedural Information

Executive Order 12866, Regulatory Planning and Review

These supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under

Executive Order 12866. These supplementary rules will not have an effect of $100 million or more on the economy. They are directed at preventing unlawful personal behavior on public lands, for purposes of protecting public health and safety. They will not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These interim final supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The supplementary rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues. The supplementary rules merely enable BLM law enforcement personnel to enforce regulations pertaining to unlawful possession/use of alcohol and drugs in a manner patterning current State of Colorado laws, as contained in the Colorado Revised Statutes, where appropriate on public lands.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601–612, (RFA) to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The final supplementary rules do not pertain specifically to commercial or governmental entities of any size, but contain rules to protect the health and safety of individuals, property, and resources on the public lands. Therefore, BLM has determined under the RFA that these final supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

These supplementary rules do not constitute a ''major rule'' as defined at 5 U.S.C. 804(2). Again, the supplementary rules pertain only to individuals who may wish to use alcohol or drugs on the public lands. In this respect, the regulation of such use is necessary to protect the public lands and facilities and those, including small business concessioners and outfitters, who use them. The supplementary rules have no effect on business, commercial or industrial use of the public lands.

Unfunded Mandates Reform Act

These final supplementary rules do not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year; nor do these interim final supplementary rules have a significant or unique effect on state, local, or tribal governments or the private sector. The supplementary rules do not require anything of state, local, or tribal governments. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*)

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The final supplementary rules do not represent a government action capable of interfering with constitutionally protected property rights. The supplementary rules do not address property rights in any form, and do not cause the impairment of anyone's property rights. Therefore, the Department of the Interior has determined that the supplementary rules would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The final supplementary rules will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The supplementary rules apply in only one state, Colorado, and do not address jurisdictional issues involving the Colorado State government. Therefore, in accordance with Executive Order 13132, BLM has determined that these final supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with E.O. 13175, we have found that these final supplementary rules do not include policies that have tribal implications. Since the rules do not change BLM policy and do not involve Indian reservation lands or resources, we have determined that the government-to-government relationships should remain unaffected. The supplementary rules only prohibit the use of alcoholic beverages and illegal drugs on public lands.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, Colorado State Office of BLM has determined that these final supplementary rules would not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

These final supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

BLM has prepared an environmental assessment (EA) and has found that the interim final supplementary rules would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the Environmental Protection Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The final supplementary rules will enable BLM law enforcement personnel to cite persons for unlawful possession/use of alcohol or drugs on public lands for the purpose of protecting public health and safety. BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section. BLM invites the public to review these documents and suggests that anyone wishing to submit comments in response to the EA and FONSI do so in accordance with the Written Comments section, above.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These final supplementary rules do not comprise a significant energy action. The rules will not have an adverse effect on energy supplies, production, or consumption. They only addresses use of alcoholic beverages and drugs on public lands, and have no conceivable connection with energy policy.

Author

The principal author of these supplementary rules is Special Agent David Moore of the Colorado State Office, BLM, assisted by Ted Hudson of the Regulatory Affairs Group, Washington Office, BLM.

For the reasons stated in the Preamble, and under the authority of 43 CFR 8365.1–6, the Colorado State Director, Bureau of Land Management, issues supplementary rules for public lands in Colorado, to read as follows:

Douglas M. Koza,

State Director, Colorado.

Supplementary Rules on Possession and Use of Drugs and Alcohol on Public Lands

The Colorado State Office issues these supplementary rules under the Federal Land Policy and Management Act (FLPMA) 43 U.S.C. 1740 and 43 CFR 8365.1–6. Enforcement authority for these supplementary rules is found in FLPMA, 43 U.S.C. 1733.

A. Unlawful Possession, and/or Consumption of an Ethyl Alcohol Beverage

1. Definitions

a. As defined in Colorado Revised Statutes Title 18, Article 13, Section 122 (1)(b); ''Etyhl alcohol'' means any substance which is or contains ethyl alcohol.

b. ''Possession of ethyl alcohol'' means that a person has or holds any amount of ethyl alcohol anywhere on his person, or that a person owns or has custody of ethyl alcohol, or has ethyl alcohol within his immediate presence or control.

3. Prohibited Acts

a. If you are under 21 years of age, you must not purchase, possess, or consume any ethyl alcohol beverages or products on public lands.

b. You must not misrepresent your age or the age of any other person for the purpose of purchasing or otherwise obtaining any ethyl alcohol beverages or products on public lands.

c. You must not sell, offer to sell, or otherwise furnish or supply any ethyl alcohol beverages or products to any person under the age of 21 years on public lands.

B. Driving Under the Influence of Alcohol and/or a Narcotic or Dangerous Drug

1. Definitions

a. As defined in the Colorado Revised Statutes Title 42, Article 4, Section 1301 (1)(f); ''Driving under the influence'' means driving a vehicle when a person has consumed alcohol or one or more drugs, or a combination of alcohol and one or more drugs, which alcohol alone, or one or more drugs alone, or alcohol combined with one or more drugs affects the person to a degree that the person is substantially incapable, either mentally or physically, or both mentally and physically, to exercise clear judgement, sufficient physical control, or due care in the safe operation of a vehicle.

b. As defined in the Colorado Revised Statutes Title 42, Article 4, Section 1301 (5)(c): If there was at such time 0.10 or more grams of alcohol per one hundred milliliters of blood as shown by analysis of such person's blood or if there was at such time 0.10 or more grams of alcohol per two hundred ten liters of breath as shown by analysis of such person's breath, it shall be presumed that the defendant was under the influence of alcohol.

c. As defined in the Colorado Revised Statutes Title 42, Article 4, Section 1301 (1)(g): ''Driving while ability impaired'' means driving a vehicle when a person has consumed alcohol or one or more drugs, or a combination of both alcohol and one or more drugs, which alcohol alone, or one or more drugs alone, or alcohol combined with one or more drugs, affects the person to the slightest degree so that the person is less able than the person ordinarily would have been, either mentally or physically, or both mentally and physically, to exercise clear judgment, sufficient physical control, or due care in the safe operation of a vehicle.

d. As defined in the Colorado Revised Statutes Title 42, Article 4, Section 1301 (5)(b): If there was at such time in excess of 0.05 but less than 0.10 grams of alcohol per one hundred milliliters of blood as shown by analysis of such person's blood or if there was at such time in excess of 0.05 but less than 0.10 grams of alcohol per two hundred ten liters of breath as shown by analysis of such person's breath, such fact shall give rise to the presumption that the defendant's ability to operate a vehicle was impaired by the consumption of alcohol, and such fact may also be considered with other competent evidence in determining whether or not the defendant was under the influence of alcohol.

2. *Prohibited act.* You must not operate a motor vehicle on public lands while under the influence, or while your abilities are impaired as described and defined above in items B.1.a–d.

C. Drug Paraphernalia

You must not possess any drug paraphernalia, as described by Colorado Revised Statutes Title 18, Article 18, Section 426, on public lands.

D. *Penalties.* Under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), if you violate or fail to comply with any of the provisions in sections A., B., and C. of these supplementary rules, you may be subject to a fine under 18 U.S.C. 3571 or other penalties under 43 U.S.C. 1733.

[FR Doc. 03–679 Filed 1–13–03; 8:45 am]

BILLING CODE 4310–JB–P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1013 (Final)]

Saccharin From China

AGENCY: International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1013 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China of saccharin, provided for in subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: December 27, 2002.

FOR FURTHER INFORMATION CONTACT: D.J. Na (202–708–4727), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as ''a non-nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table top sweeteners, and animal feeds. It is also used in metalworking fluids. There are four primary chemical compositions of saccharin: (1) Sodium saccharin (American Chemical Society Chemical Abstract Service (CAS) Registry #128–44–9); (2) calcium saccharin (CAS Registry #6485–34–3); (3) acid (or insoluble) saccharin (CAS Registry #81–07–2); and (4) research grade saccharin. Most of the U.S.-produced and imported grades of saccharin from the PRC are sodium and calcium saccharin, which are available in granular, powder, spray-dried powder, and liquid forms.''

assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of saccharin from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 11, 2002, by PMC Specialties Group Inc., Cincinnati, OH.

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on February 27, 2003, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on March 13, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 7, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 10, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 6, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 20, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 20, 2003. On April 10, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 14, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means except to the extent provided by section 201.8 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 8, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–684 Filed 1–13–03; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Northrup Grumman Corporation and TRW Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant tot he Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *Northrop Grumman Corporation and TRW, Inc.*, Civil No. 1:02 CV 02432 (GK).

On December 11, 2002, the United States filed a Complaint alleging that Northrop's acquisition of TRW would lessen competition substantially in development, production, and sale of radar reconnaissance satellite systems and electro-optical/infrared reconnaissance satellite systems, and the payloads for those systems, in the United States, in violation of section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed the same time as the Complaint, requires the defendant Northrop to act in a non-discriminatory manner in making teaming and purchase decisions on programs in which, by virtue of the

acquisition of TRW, it will be able to compete as both a prime contractor and the supplier of the payloads for the program. Copies of the Complaint, the proposed Final Judgment, and Competitive Impact Statement are available for inspection at the U.S. Department of Justice, Antitrust Division, Suite 215 North, 325 7th Street, NW., Washington, DC 20004 (telephone: 202–514–2692), and at the Clerk's Office of the U.S. Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 20001.

Public comment is invited within 60-days of the date of this notice. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer, II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530 (telephone: (202) 307–0924).

Constance K. Robinson,

Director of Operations.

Competitive Impact Statement

The United States, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On December 11, 2002, the United States filed a civil antitrust Complaint alleging that the proposed acquisition by Northrop Grumman Corporation (''Northrop'') of TRW Inc. (''TRW'') would violate section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that Northrop is one of two companies that can supply certain payloads used in reconnaissance satellite systems sold to the U.S. Government, and that TRW is one of only a few companies with the capability to act as a prime contractor on U.S. reconnaissance satellite programs that use these payloads. The payloads at issue include radar sensors, which detect objects through radio waves, and electro-optical/infrared (''EO/IR'') sensors, which detect radiation emitted or reflected from objects within the electromagnetic spectrum from far infrared through far ultraviolet. The Complaint alleges that Northrop's acquisition of TRW will give Northrop the incentive and ability to lessen competition by favoring its in-house payload and/or prime contractor capabilities to the detriment or foreclosure of its competitors, and/or by refusing to sell, or selling only at disadvantageous terms, its in-house capabilities to its competitors. It further alleges that the acquisition will harm the U.S. Government because it will pose an immediate danger to competition in two current or future programs, the Space Based Radar and the Space Based InfraRed System-Low programs.

The prayer for relief in the Complaint seeks: (1) a judgment that the proposed acquisition would violate section 7 of the Clayton Act, and (2) a permanent injunction preventing any contract, agreement, understanding, or plan the effect of which would be to combine Northrop and TRW.

When the Complaint was filed, the United States also filed a proposed settlement that would permit Northrop to complete its acquisition of TRW, but require that Northrop submit to strict oversight by the U.S. Department of Defense (''DoD'') to ensure that Northrop does not use its position as a combined reconnaissance satellite system prime contractor and reconnaissance satellite payload provider to harm competition for or in reconnaissance satellite system programs.

The proposed Final Judgment requires that, when Northrop: (1) Is the prime contractor for a U.S. Government satellite program; (2) has the responsibility to select a radar or EO/IR payload; and (3) has the opportunity to select its own payload, Northrop will select the payload on a competitive and non-discriminatory basis. It also requires that Northrop act in a non-discriminatory manner in providing information to its own in-house team and to its payload competitors, and in making personnel, resource allocation, and satellite system design decisions. These non-discrimination provisions would apply, for example, to Northrop's post-merger selection of a payload provider for the SBIRS–Low program, for which TRW has already been selected as the prime contractor. To ensure that these provisions of the Final Judgment are enforced, the decree requires that the Secretary of Defense appoint a Compliance Officer to oversee Northrop's selection process, and provides for the Secretary of the Air Force to resolve any disputes.

The proposed Final Judgment also requires that, when Northrop is a competitor or a potential competitor to be the prime contractor on a U.S. Government reconnaissance satellite system program in which Northrop has the opportunity to select its own radar or EO/IR payload, Northrop will supply other prime contractors with the Northrop payload in a manner that does not favor Northrop's in-house team. It further requires that Northrop negotiate and enter into non-exclusive teaming agreements with other prime contractors that desire to use the Northrop payloads, which agreements may not favor Northrop's in-house team. To ensure that these goals are achieved, the proposed Final Judgment provides for direct oversight of Northrop's teaming decisions by the Compliance Officer and ultimately by the Secretary of the Air Force.

The proposed final Judgment further requires that Northrop maintain its payload and satellite prime businesses as separate entities, establish firewalls, and take other actions to protect the information provided by other payload providers or prime contractors. Northrop's actions in this regard again would be subject to review by the Compliance Officer.

In addition to the continuing oversight of the Compliance Office and DoD generally, the parties to the proposed Final Judgment shall be subject to the continuing supervisory jurisdiction of the Court over the Final Judgment and the independent authority of the Antitrust Division to ensure compliance with, and seek enforcement of, all provisions of the Judgment. The Antitrust Division to ensure compliance with, and seek enforcement of all provisions of the Judgment. The Antitrust Division is authorized to seek from Northrop a civil penalty of up to $10 million for each violation of the proposed Final Judgment.

The plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and punish violations thereof.

II. Description of Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Northrop is a Delaware corporation with its principal place of business in Los Angeles, California. Northrop is one of two leading suppliers of radar and EO/IR payloads for reconnaissance satellite systems. Northrop's primary radar and EO/IR operations are in its Electronic Systems Sector facilities in Baltimore, Maryland and Azusa. California. In 2001, Northrop represented net sales of approximately $13.6 billion, including $4.7 billion in sales by its Electronic Systems Sector.

TRW is an Ohio corporation with its principal place of business in Cleveland, Ohio. The company's offices are located in California, Ohio, Georgia, and Florida. Its Space & Electronics and System divisions produce sophisticated satellite systems. In fact, TRW is one of the few companies with the ability to serve as a prime contractor for reconnaissance satellite system. In 2001, TRW has sales of roughly $16.4 billion, including $5.2 billion form the Space & Electronics and Systems divisions.

On June 30, 2002, Northrop and TRW entered into an agreement pursuant to which Northrop would acquire TRW in a transaction valued at approximately $7.8 billion. The parties closed the transaction on December 11, 2002.

B. The Relevant Markets

Reconnaissance systems are electronic systems that gather and transmit information that maybe useful to the United States' military and intelligence forces. These systems may be located on a number of types of platforms, including aircraft and, most relevant for the purposes of this case satellites. Reconnaissance systems may gather information using various types of sensors, but the most relevant types for purposes of this proceeding are radar and EO/IR.

Reconnaissance satellite systems have advantages, and face challenges, that are not applicable to airborne or other types of reconnaissance systems. Reconnaissance satellite systems can gather information about a given geographic area for a much longer time than any other system, and can provide surveillance over geographic areas that aircraft or other platforms cannot reach. Because they operate at such great distances

from their targets, however, space-based systems also require much more capable and sophisticated sensors than do other kinds of reconnaissance systems. Furthermore, because space based systems cannot be maintained or repaired once they are launched, the components of the system must be designed and manufactured to withstand the rigors of constant use, over many years, without requiring any refurbishment or repair. Finally, components of reconnaissance satellite systems must be hardened against radiation, able to withstand the harsh environment of space, and capable of operating in substantial temperature ranges.

A reconnaissance satellite system consists of one or more satellites and associated ground facilities for support and data processing. A reconnaissance satellite has two primary components—the unmanned spacecraft itself, generally known as the ''bus,'' and one or more assemblies of sensors and other components, usually refereed to as the ''Payload.'' The payload enables the satellite to perform a specific reconnaissance mission. While the bus and the payload are separate products, the system and its payload have to be jointly developed because their performance is interdependent. The lead (''prime'') contractor for a reconnaissance satellite system has overall responsibility for the design, development, production, and integration of the system components. The prime contractor typically produces the spacecraft, and either produces or procures the ground facility components. The prime contractor may also produce or acquire launch vehicles or services for the satellites. The prime contractor typically acquires the payload from another manufacturer, and the U.S. Government relies on prime contractors to select payloads based on their competitive merits so as to optimize over all system performance.

TRW is one of the few companies that has the capability to be the prime contractor on a U.S. reconnaissance satellite system. Northrop is one of only two companies that has the capability to be the radar or EO/IR payload provider on U.S. reconnaissance satellite systems.

Radar Reconnaissance Satellite Systems

Radar is the process of sending out radio waves and listening for the echoes that result when they strike and bounce off an object. The United States deploys many types of radars using distinctive signal processing technologies. Imaging radars, for example, can create photograph-like images and identify and track moving targets. Because radars can see through clouds, operate at night, and function independently of the energy emitted by a target, radar reconnaissance satellite systems will be able to gather information of a type and under conditions that cannot be duplicated by other types of reconnaissance satellite systems.

The Space-Based Radar (''SBR'') program is a DoD program intended to develop and produce an operational radar reconnaissance satellite system. The Request for Proposal for SBR is expected to be issued in early 2003, and the first SBR satellite launch is scheduled for 2010. TRW is one of a few companies with the capability to be the prime contractor for the SBR program. The only companies with the capability to supply the advanced radar sensors for the SBR program are Northrop and one other company, both of which have been developing their radar capabilities, and receiving funds and evaluations from the U.S. Government, in anticipation of the SBR program. It is expected that the potential prime contractors and radar reconnaissance satellite payload providers will have to form teams for the SBR competition no later than 2003.

The Complaint alleges that the development, production, and sale of radar reconnaissance satellite systems is a product market. As described above, the mission and performance characteristics of such systems are sufficiently different from the mission and performance characteristics of non-radar reconnaissance satellite systems, and from non-space-based radar reconnaissance systems, that a small but significant increase in prices for radar reconnaissance satellite systems would not cause the only customer, the U.S. Government, to switch to other types of systems so as to make such a price increase unprofitable and unsustainable.

The Complaint also alleges that the development, production and sale of radar reconnaissance satellite payloads is a product market. As described above, the mission and performance characteristics of such payloads are sufficiently different from the mission and performance characteristics of non-radar reconnaissance satellite payloads, and from non-space-based radar reconnaissance payloads that a small but significant increase in prices for radar reconnaissance satellite payloads would not cause the only customer, the U.S. Government, or prime contractors competing to provide reconnaissance systems to the U.S. Government, to switch to other types of systems or other types of payloads, so as to make such a price increase unprofitable and unsustainable.

EO/IR Reconnaissance Satellite Systems

EO/IR systems detect electromagnetic radiation emitted or reflected from objects within the spectrum from far infrared to far ultraviolet. These components are used to detect, locate, identify, or track a target. EO/IR Early Warning (''EW'') systems are used in missile defense programs to detect the hot plumes of a missile launch. EO/IR sensors may be found on a number of different platforms, including aircraft and satellites, and are already used as part of the Defense Support Program (''DSP'') satellite system to provide early missile warning.

The current programs designed to provide space-based EO/IR reconnaissance capabilities are called the Space-Based Infrared System (''SBIRS'') High and SBIRS-Low. SBIRS-High will provide a system of satellites orbiting thousands of miles above the earth, scanning large sections of the planet for signs of a missile launch, and warning of that event if it occurs. One of TRW's competitors will serve as the prime contractor for SBIRS-High, and Northrop will supply the EO/IR payload. SBIRS-High will serve to provide essentially the same mission as the current DSP program, but will employ higher-performance instrumentation. SBIRS-Low is a planned system of satellites in lower-earth orbit that will ''acquire'' a missile and track it so that it may be intercepted. The acquisition function proposed for SBIRS-Low is similar to the work being done by DSP and planned for SBIRS-High; in contrast, the tracking function planned for SBIRS-Low is a different and much more technically difficult one.

The Missile Defense Agency (''MDA''), Which Controls the SBIRS program, established a ''national team'' for SBIRS-Low in April 2002, naming TRW as the prime contractor. The MDA plan calls for a continuing competition between the only two potential payload suppliers. Northrup and another company, throughout the SBIRS-Low program. The competition between the two SBIRS-Low payload suppliers is to be run by TRW as the prime contractor. TRW, with nominal oversight from the United States, will choose the winner of the payload competition.

The Complaint alleges that the development, production, and sale of EO/IR systems can provide coverage of geographic areas that cannot be reached by other EO/IR systems and can provide persistent coverage of specific geographic areas. Further, EO/IR systems can detect missile launches and track missiles better than other types of reconnaissance systems. A small but significant increase in prices for space-based EO/IR systems would not cause the only customer, the U.S. Government, to switch to other types of systems so as to make such a price increase unprofitable and unsustainable.

The Complaint also alleges that the development, production and sale of EO/IR reconnaissance satellite payloads is a product market. Space-based EO/IR payloads are specially designed to work in a space-based EO/IR reconnaissance satellite system: other space-based payloads cannot perform the same missions or be used in EO/IR reconnaissance satellite systems. A small but significant increase in prices for EO/IR reconnaissance satellite payloads would not cause the only customer, the U.S. Government, or prime contractors competing to provide reconnaissance systems to the U.S. Government, to switch to other types of systems or other types of payloads, so as to make such a prime increase unprofitable and unsustainable.

C. Harm to Competition as a Consequence of the Acquisition

If Northrop purchases TRW, it will own one of the few companies capable of competing as a prime contractor for radar or EO/IR reconnaissance satellite systems. TRW has demonstrated its technical, financial, and organizational ability to bid for, win, and perform on complex U.S. Government space systems by competing for and winning a number of such programs. Similarly, Northrop is one of only two companies with the capability to produce the payloads to be used on radar and EO/IR reconnaissance satellite systems.

Absent the protections afforded by the proposed consent decree, Northrop would have to incentive and ability post-merger to deny its competitors access to either its prime contractor or payload capabilities. If

Northrop has already been chosen to be a prime, it will have the incentive and ability to choose its own payload, lessening the incentive of competitors to compete for the program, and harming the U.S. Government by diminishing innovation and increasing program costs.

A further effect of the merger is the threat that it poses to proprietary information of rival primes and payload suppliers that enter into teaming agreements with Northrop. Absent the protections afforded by the proposed Final Judgment, a reconnaissance satellite system prime contractor that teams with Northrop risks the loss of its proprietary information to the former TRW's satellite system business, and a radar or EO/IR supplier that teams with the former TRW satellite system business risks the loss of its proprietary information to Northrop.

Effect of the Merger on the SBR Program

If Northrop owns TRW, it will have the incentive to deny access to the Northrop payloads if it believes that doing so will lessen the ability of its competitors to compete successfully for the specific reconnaissance satellite system program. This incentive will be strongest when Northrop believes that the presence on a team of either the Northrop payload or the TRW prime contractor capabilities provides the greatest chance of deciding the competition in that team's favor.

The SBR program is an immediate example of how the merged firm would have the ability and incentive to deny its competitors access to a Northrop payload. TRW plans to compete to be the prime contractor for the SBR program, and is a likely bidder on future space-based radar programs as well. Northrop is one of only two companies with the ability to provide payloads for radar reconnaissance satellite system programs, including the SBR program. The prime contractors and radar payload providers must work together at an early stage to develop an integrated system that can perform the mission required by the SBR program. The competition for the SBR program will be between teams, each with a potential prime contractor and potential payload provider. The U.S. Government will choose the team that offers the best value. No prime contractor/radar payload teams have yet been formed.

An important factor in competing for the SBR program is the performance of the radar payload. The purpose of any space-based radar program is to gather and transmit information with the use of radar technology, and the team with the best-performing radar will have an advantage in the competition. The U.S. Government is likely to prefer Northrop to supply the SRB payload, and so is more likely to award the prime contract to a team including a Northrop payload. The prime contractors and Northrop are aware of this.

After the proposed acquisition, Northrop will thus have the ability and incentive to foreclose SBR prime contractor competitors by denying them the Northrop payload or by making personnel, investment, design, and other payload-related decisions that disadvantage those competitors. Northrop's incentive to do so is straightforward—by winning both the SBR prime contractor competition and the SBR payload competition, it will make more money than if it wins only the SBR payload competition under existing DoD regulations. Northrop could not earn the same profit by simply raising its payload price because DoD has the ability to audit defense subcontractor costs and prevent overcharging through various pressures and the threat of lost future business. In economic terms, Northrop is not able to extract all of the economic rents at the payload level. The ability to obtain additional, otherwise unobtainable, profits by being both the prime contractor and the payload supplier gives Northrop the incentive to foreclose competitors.

Absent the protections afforded by the proposed consent decree, the United States would be harmed because innovation in the SBR program and similar future programs would be lessened, and the United States would be less likely to obtain a radar reconnaissance satellite system that includes both the best prime contractor and the best radar payload provider.

Effect of the Merger on the SBIRS-Low Program

If the post-merger Northrop has already been chosen to be the prime contractor on an EO/IR reconnaissance satellite system program, it will have the incentive and ability to choose its own payload for that system and program on a basis other than the competitive merits. If Northrop should choose its own payload under these circumstances, it would lessen the ability and incentive of competitors to compete for the payload, and thus harm the United States by diminishing innovation and increasing program costs.

Prior to the merger, TRW was selected as the prime contractor for SBIRS-Low, and has the authority to choose the EO/IR payload that will be used on the satellite, subject to the approval of the U.S. Government. Before that selection is made, the government's SBIRS-Low acquisition strategy calls for a continuing competition between Northrop and the only other supplier to provide the payload. Under an agreement with the U.S. Government, TRW was given broad authority to run that competition and determine the winner. This authority has passed to, and may be exercised by, Northrop through its purchase of TRW.

Northrop will benefit after the acquisition if the Northrop EO/IR payload is chosen for SBIRS-Low. Northrop will receive the additional profit generated by the EO/IR payload contract, and will be in an improved position to win future EO/IR payload contracts because of the experience gained through SBIRS-Low. Northrop thus has the incentive to influence the competition to increase the chances that its payload will be chosen.

Even though the U.S. Government has the authority to approve the SBIRS-Low payload choice made by a post-merger Northrop, Northrop as the prime contractor will still have the ability to influence the competition. Northrop would be able to effect design changes to the SBIRS-Low satellite or the system as a whole that would favor the Northrop payload or increase the costs to competitors of designing and producing a winning payload.

Northrop's post-merger ability to influence the selection of itself as the supplier for the SBIRS-Low payload will substantially lessen competition by reducing the ability of its competitor to win the award even if its payload is a better value for the United States. The United States will be harmed by its inability to obtain the best-quality SBIRS-Low payload at the lowest cost.

Entry

Successful entry into the complex, high technology markets for radar reconnaissance satellite systems, radar reconnaissance satellite payloads, EO/IR reconnaissance satellite systems, and EO/IR reconnaissance satellite payloads would not be timely, likely, or sufficient to deter any unilateral or coordinated exercise of market power as a result of the transaction. It would be extremely difficult for a new entrant to establish the technological expertise required to compete successfully in any of these markets. competitions are intermittent and infrequent, and require a substantial initial investment.

Potential Harm

The Complaint summarizes the potential harm to competition resulting from the proposed merger. It alleges that the transaction will likely have the following anticompetitive effects, among others: competition generally in the development, production, and sale of radar reconnaissance satellite systems, radar reconnaissance satellite payloads, EO/IR reconnaissance satellite systems, and EO/IR reconnaissance satellite payloads would be substantially lessened; prices for radar reconnaissance satellite systems, radar reconnaissance satellite payloads, EO/IR reconnaissance satellite systems, and EO/IR reconnaissance satellite payloads would likely increase; and quality and innovation in each of these markets would decline.

III. Explanation of the Proposed Final Judgment

The vertical combination of Northrop and TRW offers benefits to the United States that could not be obtained if structural relief were imposed. *See* section VI, *infra.* The United States, therefore, has consented in the unique circumstances of this case to the strict behavioral remedies described below. The proposed Final Judgment preserves competition in the relevant radar or EO/IR reconnaissance satellite system and payload markets by requiring specific non-discriminatory conduct from Northrop to prevent the foreclosure from these markets of competing prime contractors and payload providers. Section IV.A of the proposed Final Judgment sets out requirements to ensure that Northrop will select the payload on a non-discriminatory basis when Northrop has already been selected as the prime contractor for a given reconnaissance satellite system program. This section addresses immediate competitive concerns related to Northrop's post-merger conduct in the SBIRS-Low program, as well as conduct in future reconnaissance satellite system programs where Northrop is selected as the prime contractor.

Section IV.B ensures that, after the merger, Northrop will make its payloads available on a non-discriminatory basis to other prime contractor competitors in those reconnaissance satellite system programs for which Northrop has not yet been selected as the prime contractor or the payload provider. It addresses immediate competitive concerns related to Northrop's post-merger conduct in the SBR program, as well as conduct in future reconnaissance satellite system programs for which Northrop is a prime contract competitor and has the opportunity to select its own radar or EO/IR payload. Section IV.F establishes firewall provisions designed to protect the confidential business information of Northrop's satellite prime competitors and radar and EO/IR payload competitors. Four final Sections of the proposed Final Judgment ensure compliance with its terms. Section V provides for the appointment of a Compliance Officer and defines his or her powers and responsibilities; Section VI reserves important investigatory and enforcement powers for the Antitrust Division of the United States Department of Justice; Section VII permits the Court to impose substantial civil penalties for violations of the Final Judgment; and Section VIII confirms the Court's continuing jurisdiction to modify and enforce the proposed Final Judgment.

Non-Discrimination

Section IV.A of the proposed Final Judgment establishes that when Northrop is the prime contractor for a reconnaissance satellite system program, is responsible for selecting the payload, and has the opportunity to select its own payload, Northrop must select the payload on a competitive and non-discriminatory basis. To ensure that it makes an impartial payload selection, Northrop must propose and obtain approval of payload source selection criteria from the Compliance Officer and communicate the criteria to all competing payload suppliers. Should the Compliance Officer not approve the criteria, the Secretary of the Air Force shall have the sole discretion to approve, alter, or set the selection criteria. Under these circumstances, Northrop shall also provide information regarding its reconnaissance satellite systems to its in-house proposal teams and bona fide payload competitors, and make all personnel, resource allocation, and satellite system design decisions on a non-discriminatory basis. If Northrop selects its own payload, it must fully explain the basis for that selection to and seek the prior approval of the Compliance Officer. Where, however, Northrop notifies the Compliance Officer that it has elected not to use or supply its payload to itself as prime contractor, it need not comply with the above requirements.

Section IV.B requires that when Northrop is either a competitor or potential competitor for a prime contractor position on a reconnaissance satellite system program in which it has the opportunity to select its own payload, it must supply its payload on a non-discriminatory basis to all prime contractors that have expressed to Northrop a potential desire to utilize it. To that end, Northrop is required to supply its payload and related information to all such prime contractors in a manner that does not favor its in-house proposal team. For the purpose of bidding on satellite competitions and similar activities, it must also negotiate in good faith with such prime contractors to enter into commercially reasonable nonexclusive teaming agreement and contracts that do not discriminate in favor of its in-house proposal team. These teaming agreements will be subject to the approval of the Compliance Officer and the Secretary of the Air Force. Northrop also must, on a non-discriminatory basis, make all personnel, resource allocation, and design decisions concerning its payload and provide information regarding its payload to contractors with which it has teamed. If the Compliance Officer concludes that Northrop has failed to comply with these requirements, the Secretary of the Air Force has the sole discretion to decide with whom, and on what terms, Northrop enters into such teaming relationships.

The non-discrimination rules of Section IV.A and IV.B are the central provisions of this proposed Final Judgment and apply to a wide variety of conduct: the provision of information to competitors and in-house teams, payload selection criteria, payload selection, entering into contracts or teaming agreements, and numerous other decisions affecting such matters as personnel, design and investment. The term ''discriminate'' is defined in Section II.N. of the proposed Final Judgment as meaning ''to choose or advantage Northrop or to reject or disadvantage a Northrop prime or payload competitor for any reason other than the competitive merits; provided, however, that the determination of compliance or non-compliance with the non-discrimination provisions of this Final Judgment shall take into account that different firms will take different competitive approaches that may result in differences, individually or collectively * * *'' in a number of factors.

What this means in practice is that the United States will require Northrop to be equally aggressive in supporting all competing teams. While different firms will follow different competitive and technical approaches when competing for reconnaissance satellite systems and payloads, differences in treatment must be merit-driven. Northrop will not be permitted to favor its in-house approach and undermine competing teams and their innovation approaches. The proposed Final Judgment recognizes that discrimination may result from either a single event, such as a important design decision, or from a series of smaller actions.

Sections IV.A and IV.B of the Final Judgment preserve competition by providing other payload and prime contract competitors the opportunity to provide meaningful competition in their respective markets and by ensuring that Northrop makes payload selections in the best interests of the U.S. Government. Absent these requirements, Northrop could deny other payload competitors access to its reconnaissance satellite systems information or make discriminatory selections regarding its satellite systems, thereby precluding competitors from competing to provide the payload. Likewise, Northrop could deny access to its payloads and thereby deny its prime contractor competitors the opportunity to provide meaningful competition, and deny the U.S. Government the benefits of that competition. These provisions ensure that DoD has the maximum possible number of potential teaming possibilities in response to a request for proposals and that the highest-value payload and reconnaissance satellite system are selected. Absent these provisions, foreclosure by Northrop would reduce incentives to innovate and reduce the number of innovation approaches, thus harming the U.S. Government.

Firewalls

Section IV.F of the proposed Final Judgment requires that Northrop maintain its payload business separate and apart from its satellite prime business.[1] These provisions prevent the flow of information between the two businesses by requiring Northrop to establish separate communication networks, maintain separate locations, and use reasonable efforts to avoid transferring employees between the businesses. These firewall provisions further prevent Northrop's payload business from making available to its satellite prime business any non-public information provided by a prime contract competitor to Northrop as the payload provider. This will preserve competition by assuring other prime contract competitors that their confidential reconnaissance satellite system information will not be shared with Northrop's satellite prime business, thereby encouraging them to team their satellite systems with Northrop's payloads, providing DoD with the maximum number of teaming possibilities, and preserving the greatest number of innovation paths. Similar provisions assure other payload competitors that their confidential payload information will not be shared with Northrop's payload business.

Enforcement

To assure compliance with the Final Judgment. Section V requires the Secretary of Defense to appoint a Compliance Officer who, by the terms of the Final Judgment, has all necessary investigative and enforcement powers. The Compliance Officer, an employee of the U.S. Government, is authorized to hire, at the expense of Northrop, a team of contractors and other technical personnel to assist him or her in monitoring and ensuring compliance with the proposed Final Judgment. The team is limited to ten hired consultants, absent the approval of the Secretary of the Air Force to increase that number. Northrop may not object to the Compliance Officer selected by the Secretary of Defense, must use its best efforts to assist the Compliance Officer, and may take no action to interfere with or impede his or her duties. In practice, it is expected that the Compliance Officer will be proactive and will intercede early on to address and remedy any issues informally.

[1] The proposed Final Judgment describes this business as the ''current TRW Space & Electronics Satellite Systems business.'' This unit, which conducts TRW's satellite system prime contracting business, will conduct that business for the combined company, and the proposed Final Judgment will apply to any future reorganization.

The consequences of a violation of the proposed Final Judgment, apart from the significant civil penalties discussed below, are severe and substantial. Under Section IV.A of the proposed Final Judgment, if the Compliance Officer concludes that Northrop discriminated in its own favor in either its payload selection or the selection process, the Secretary of the Air Force is given ''the sole discretion to choose the [p]ayload supplier'' and to dismiss Northrop's selection. Under Section IV.B of the proposed final Judgment, if the Compliance Officer concludes that Northrop discriminated in favor of its in-house team, or failed to negotiate in good faith or enter into a commercially reasonable teaming agreement or contract, the Secretary of the Air Force is given ''the sole discretion to decide with whom, and on what terms, Northrop enters into such teaming relationships. * * * '' In effect, if the Compliance Officer determines that Northrop has discriminated in its own favor in a manner prohibited by the proposed Final Judgment, the Secretary of the Air Force is authorized to reverse any decision made by Northrop and to determine whether and on what terms Northrop will participate in the bid under consideration. These provisions collectively ensure that the U.S. Government, after the merger, will be able to detect discriminatory conduct prohibited by the proposed Final Judgment and to remedy quickly any selection or agreement that violates the proposed Final Judgment.

Sections VI, VII and VIII of the proposed Final Judgment confirm the significant investigative and enforcement authority of the Antitrust Division of the U.S. Department of Justice in this matter and the continuing supervisory jurisdiction of the Court in implementing the Judgment. The Antitrust Division, among other things, will be permitted to inspect and copy Northrop's documents; interview Northrop's officers, employees, or agents; and request reports from Northrop. The Antitrust Division will also have the discretion to seek enforcement of the proposed Final Judgment from the Court, which may order Northrop to pay civil penalties of up to $10 million for each violation of the Final Judgment. It is anticipated that the Antitrust Division and the General Counsel of the DoD will work closely together in enforcing the terms of the Final Judgment, and the Antitrust Division may take enforcement actions either on the recommendation of the General Counsel of the DoD or on its own initiative.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendants.

V. Procedures Available For Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, if the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest. 15 U.S.C. 16(e).

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. 15 U.S.C. 16(b). Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register.** The United States will evaluate and respond to the comments. All comments will be given due consideration by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the United States' responses will be filed with the Court and published in the **Federal Register**. Written comments should be submitted to: J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court will retain jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants Northrop and TRW. The United States could have brought suit and sought preliminary and permanent injunctions against Northrop's acquisition of TRW.

When the United States determines that a horizontal or vertical merger would result in a substantial lessening of competition, it generally seeks to block the merger or obtain structural relief. However, when a merger offers significant efficiencies, which cannot be obtained absent the merger or if a structural remedy is imposed, the United States will consider behavioral remedies.

With respect to this transaction, DoD, the only customer for the highly complex reconnaissance satellite systems affected by the transaction, determined that, with an appropriate decree resolving the vertical integration problems identified, the proposed acquisition offers the possibility of increased competition for DoD space requirements generally and of significant competitive benefits to DoD that would not be realized if the merger did not occur. Following a thorough review of the transaction, DoD concluded that entry of the proposed Final Judgment would remedy its potential anticompetitive effects, while permitting the potential achievements of significant benefits. Given the DoD's conclusion that the United States would benefit from the transaction if the competitive problems could be remedied, and given the importance of a vertically integrated firm structure to the achievement of those benefits, the Department of Justice determined that the proposed Final Judgment, containing strict behavioral prohibitions and significant potential sanctions, is the best available means of satisfying the public interest in competition. Neither the Department of Justice nor the DoD considers this proposed Final Judgment to be a general approval of behavioral remedies for all vertical or horizontal mergers, but rather consider it appropriate here under the unique circumstances of this case.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the court may consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e). As the Court of Appeals for the District of Columbia Circuit has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

In conducting this inquiry, ''the [C]ourt is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [2] Rather ''absent a showing of corrupt failure of the government to discharge its duty, the Court,

[2] 119 Cong. Rec. 24598 (1973). *See also United States* v. *Gillette Co.,* 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. No. 93–1463, 93rd Cong. 2d See. 8–9 (1974), reprinted in 1974 U.S.C.C.A.N. 6535, 6538.

in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.'' [3]

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''enage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS Inc.,* 858 F.2d 456, 462 (9th Cir. 1988), (quoting *United States* v. *Bechtek Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also, Microsoft,* 56 F.3d 1458 (D.C. Cir. 1995). Precedent requires that

''[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instanc, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is '*within the reaches of the public interest*.' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.'' [4]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest'.'' [5]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that the United States considered in formulating the proposed Final Judgment.

For Plaintiff United States of America:

J. Robert Kramer II, Chief, Litigation II Section, PA Bar No. 23963.

Maribeth Petrizzi, Assistant Chief, Litigation II Section.

Robert W. Wilder, Trial Attorney, Virginia Bar No. 14479, U.S. Department of Justice, Antitrust Division, 1401 H St., NW., Suite 3000, Washington, DC 20530, (202) 307–0924, (202) 307–6283 (Facsimile).

[3] *United States* v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

[4] *United States* v. *Bechtel,* 658 F.2d at 666 (internal citations omitted)(emphasis added); *accord United States* v. *BNS Inc.,* 858 F.2d at 463; *United States* v. *Nat'l Broadcasting Co.,* 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.,* 406 F. Supp. at 715. *See also United States* v. *Am. Cyanamid Co.,* 719 F.2d 558, 565 (2d Cir. 1983).

[5] *United States* v. *Am. Tel. and Tel Co.,* 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. at 716); *see also United States* v. *Alcan Aluminum, Ltd.,* 605 F. Supp. 619. 622 (W.D. Ky. 1985).

Dated: December 23, 2002.

Certificate of Service

I, Robert W. Wilder, hereby certify that on December 23, 2002, I caused copies of the foregoing Competitive Impact Statement to be served on defendants Northrop Grumman Corporation and TRW, as indicated below:

Counsel for Defendant Northrop Grumman: James R. Loftis, III, Esquire, Gibson, Dunn & Crutcher LLP, 1050 Connecticut Ave. NW., Suite 900, Washington, DC 20036–5306, *Telephone No.:* (202) 955–8500, *Facsimile No.:* (202) 467–0539, Via Facsimile and U.S. Mail.

Counsel for Defendant TRW Corporation: Brian C. Mohr, Esquire, Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, NW., Washington, DC 20005–2111, *Telephone No.:* (202) 371–7774, *Facsimile No.:* (202) 661–9067, Via Facsimile and U.S. Mail.

Robert W. Wilder, Virginia Bar No. 14479, U.S. Department of Justice, Antitrust Division, 1401 H. Street, NW., Suite 3000, Washington, DC 20530, *Telephone No.:* (202) 307–6336.

Stipulation and Order

It is hereby Stipulated by and between the undersigned parties, subject to approval and entry by the Court, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

2. The parties stipulate that a Final Judgment in the form hereto attached may be filed with an entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedure and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though they were in full force and effect as an order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

5. If the United States has withdrawn its consent, as provided in paragraph 2 above, or if the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provision of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

6. Defendants represent that the required actions set forth in Sections IV and V of the proposed Final Judgment can and will be implemented and followed and that the defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained therein.

7. This Stipulation shall be effective only upon the closing of the Northrop Grumman/TRW transaction.

Respectfully submitted,

For Plaintiff

United States of America: J. Robert Kramer II, Pennsylvania Bar No. 23963, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530, *Telephone:* (202) 307–0924, *Facsimile*: (202) 307–6283.

For Defendant

Northrop Grumman Corporation: Robert E. Nelson, Corporate Vice President, Business Strategy, Northrop Grumman Corporation, 1840 Century Park East, Los Angeles, California 90067, *Telephone*: (310) 201–3493, *Fax*: (310) 201–3494.

For Defendant TRW Inc.: William B. Lawrence, Ohio State Bar No. 0031971, Executive Vice President, General Counsel, and Secretary, TRW, Inc., 1900 Richmond Road, Cleveland, Ohio 44124, Telephone: (216) 291–7230, Fax: (216) 291–7872.

Dated: December 11, 2002.

Order

It is so ordered, this_____day of_____, 2002.

_____

United States District Court Judge

Final Judgment

Whereas, plaintiff, United States of America, filed its Complaint in this action on December 11, 2002, and plaintiff and defendants, Northrop Grumman Corporation (''Northrop'') and TRW Inc. (''TRW''), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of fact or law herein: and

Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court; and

Whereas, plaintiff requires defendants to agree to certain procedures for the purpose of remedying the loss of competition alleged in the Complaint; and

Whereas, defendants have represented to the United States that the procedures required below can and will be implemented and followed and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained below:

Now Therefore, before the taking of any testimony, and without trial or adjudication

of any issue of fact or law herein, and upon consent of the parties hereto, it is ordered, Adjudged and Decreed as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definition

As used in this Final Judgment:

A. ''Northrop'' means defendant Northrop Grumman Corporation, a Delaware corporation with its headquarters in Los Angeles, California, its successors and assigns, and its subsidiaries, division, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees and, after consummation of the acquisition of TRW, all TRW businesses, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees acquired by Northrop.

B. ''TRW'' means defendant TRW Inc., an Ohio corporation with its headquarters in Cleveland, Ohio, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Defendants'' means, collectively or individually as the context requires, Northrop and/or TRW.

D. ''DoD'' means the United States Department of Defense.

E. ''Secretary of Defense'' means the United States Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of Defense's designee.

F. ''Secretary of the Air Force'' means the United States Secretary of the Air Force or the Secretary of the Air Force's designee.

G. ''Prime'' or ''Prime Contractor'' means any entity engaged in the research, development, manufacture, sale and/or integration of Satellite Systems that sells or competes to sell Satellite Systems directly to the United States government.

H. ''Payload'' means the assembly or assemblies on a Satellite that, using electro-optical technology, infrared technology, or radar technology, enable a Satellite to perform a specific mission. Payload also shall include, with the assembly or assemblies, all related components, software, interfaces, any other items within the assembly or assemblies that enable the Payload to perform its contemplated function, and all related technical data and information customarily provided by a Payload supplier to a Prime Contractor prior to entering into, or ion the course of working pursuant to, a teaming agreement or contract. Data and information customarily provided includes the types of data and information provided by Northrop to its inhouse Prime contract proposal team. Payload expressly excludes those payloads whose primary mission is communications.

I. ''Satellite'' means an unmanned vehicle that is launched with a Payload for the purpose of collecting and/or transmitting data back to Earth and that is designed either to orbit the Earth or to travel away from the Earth.

J. ''Satellite Systems'' means any Satellite and a system or series of systems designed, developed, or utilized in connection with the operation of a Satellite and corresponding subsystems and ground systems. Satellite Systems also shall include all information related to interfaces and any other defining parameters or specifications that enable the Payload to perform its contemplated function, and all related technical data and information, customarily provided by a Satellite Systems Prime Contractor to a Payload supplier prior to entering into, or in the course of working pursuant to, a teaming agreement or contract. Information and data customarily provided includes the types of information and data provided by Northrop to its in-house Payload proposal team.

K. ''Northrop Payload Business'' means that portion of Northrop engaged in the research, development, manufacture, or sale of Payloads, excluding former TRW Payload entities.

L. ''Northrop Satellite Prime Business'' means that portion of Northrop, or the TRW entity acquired by Northrop, that is engaged in the Satellite Systems integration business, including the research, development, manufacture, or sale of Satellite Systems or otherwise conducting business as a Satellite Systems integrator, and that performs contracts directly for the United States government.

M. ''United States Government Satellite Program'' or ''Program'' means any Satellite program executed by the DoD, which includes the National Reconnaissance Office.

N. ''Discriminate'' means to choose or advantage Northrop, or to reject or disadvantage a Northrop Prime or Payload competitor, in the procurement process for any reason other than the competitive merits; provided, however, that the determination of compliance or non-compliance with the non-discrimination provisions of this Final Judgment shall take into account that different firms will take different competitive approaches that may result in differences, individually and collectively, in price, schedule, quality, data, personnel, investment (including but not limited to, independent research and development), technology, innovations, design, and risk.

O. The terms ''and'' and ''or'' have both conjunctive and disjunctive meanings.

P. The terms ''he'' and ''his'' also include ''she'' and ''her.''

III. Applicability

This Final Judgment applies to Northrop and TRW, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV. Required Conduct

A. When Northrop is the Prime Contractor for a United States Government Satellite Program, has the responsibility to select a Payload for the Satellite, and has the opportunity to select its own Payload, the following is required:

(1) *Northrop shall*:

(a) Select the Payload on a competitive and non-discriminatory basis:

(b) on a non-discriminatory basis, provide information, as set forth in Definition J, regarding Satellite Systems to its in-house Payload proposal teams and any bona fide Payload competitors;

(c) make all personnel, resource allocation, and design decisions regarding Satellite Systems on a non-discriminatory basis; and

(d) propose non-discriminatory Payload source selection criteria, obtain approval from the Compliance Officer (as defined in Section V, below) for such criteria before the Payload providers are formally solicited, and communicate the approved source selection criteria to all competing Payload suppliers. The Compliance Officer shall not unreasonably withhold approval of the selection criteria and shall approve or reject the selection criteria within ten (10) business days of receipt of the criteria. If the Compliance Officer does not approve of the source selection criteria proposed by Northrop, the Compliance Officer shall refer the matter to the Secretary of the Air Force, who shall have the sole discretion to set non-discriminatory source selection criteria to be used by Northrop. The Secretary of the Air Force shall approve or alter the source selection criteria within five (5) business days of the decision of the Compliance Officer.

(2) When Northrop is the Prime Contractor for a United States Government Satellite Program, if it has decided to select a Northrop Payload, it shall seek the prior approval of the Compliance Officer and fully explain the reasons for the proposed source selection. The Compliance Officer shall review the proposed selection of Northrop, and shall approve or reject the selection within ten (10) business days of receiving the selection. If the Compliance Officer concludes that Northrop discriminated in its own favor, either in its Payload selection or the selection process, he shall refer the matter to the Secretary of the Air Force, who shall have the sole discretion to choose the Payload supplier. The Secretary of the Air Force shall approve or alter the selection within ten (10) business days of the decision of the Compliance Officer.

(3) In the event Northrop notifies the Compliance Officer in writing that: (i) Northrop, as the Prime Contractor, elects not to use the Northrop Payload; or (ii) the Northrop Payload Business elects not to supply its Payload to the Northrop Satellite Prime Business. Northrop need not comply with the requirements of Section IV.A after such notice.

B. When Northrop is a competitor (or, for potential future Programs, when Northrop has the capability to compete and has taken steps in anticipation of potentially competing) to be the Prime Contractor on a United States Government Satellite Program in which Northrop has the opportunity to select its own Payload, the following is required:

(1) Northrop shall:

(a) For each Program or potential future Program for which a Prime Contractor notifies Northrop that it potentially desires to

have Northrop supply the Payload, supply such Prime Contractor its Payload in a manner that does not discriminate in favor of its in-house proposal team against any other Prime Contractor on any basis, including but not limited to, price, schedule, quality, data, personnel, investment (including but not limited to, independent research and development), technology, innovations, design, and risk;

(b) for each Program or potential future Program for which a Prime Contractor notifies Northrop of a bona fide potential desire to have Northrop supply the Payload, negotiate in good faith with such Prime Contractor to enter into commercially reasonable nonexclusive teaming agreements and contracts for the purpose of bidding on Satellite competitions and similar activities; such agreements and contracts shall not discriminate in favor of its in-house proposal team against any other Prime Contractor on any basis, including but not limited to, price, schedule, quality, data, personnel, investment (including but not limited to, independent research and development), technology, innovations, design, and risk;

(c) prior to entering into any such teaming agreements and contracts, provide to the Compliance Officer copies of such agreements for his approval. The Compliance Officer shall not unreasonably withhold approval of such agreements and contracts, and shall approve or reject the agreements and contracts within five (5) business days of receipt of the agreement or contract. If the compliance Officer does not approve of the terms of an agreement or contract, the Compliance Officer shall refer the matter to the Secretary of the Air Force, and Northrop shall enter into teaming agreements and contracts on specific terms as required by the Secretary of the Air Force, in his sole discretion, such decision to be made within five (5) days of the decision of the Compliance Officer;

(d) on a non-discriminatory basis, provide information, as set forth in Definition H, regarding its Payload to its in-house proposal team(s) and to any Prime Contractor that has notified Northrop of a bona fide potential desire to have Northrop supply its Payload or with which Northrop has teamed to supply its Payload; and

(e) make all personnel, resource allocation, and design decisions regarding the Payload on a non-discriminatory basis between its in-house proposal team(s) and any Prime Contractor with which Northrop has teamed to supply its Payload.

(2) If the Compliance Officer concludes that Northrop has discriminated in favor of its in-house proposal team, failed to negotiate a teaming agreement or contract in good faith, or refused to enter into a commercially reasonable teaming agreement or contract, the Compliance Officer shall refer the matter to the Secretary of the Air Force who shall have the sole discretion to decide with whom, and on what terms. Northrop enters into such teaming relationships, such decision to be made within five (5) business days of the decision of the Compliance Officer.

(3) Notwithstanding any provisions of this Section IV.B, Northrop may refuse to supply a Payload to any Satellite Systems Prime if the number and/or burden of Satellite Systems Primes seeking the benefit of this Section becomes unreasonably large. In such event, Northrop shall notify the compliance Officer, who shall review the decision and make a recommendation to the Secretary of the Air Force within ten (10) business days. The Secretary of the Air Force shall have the sole discretion to decide with whom, and on what terms. Northrop enters into such teaming relationships, such decision to be made within ten (10) business days of the decision of the Compliance Officer.

(4) In the event that Northrop notifies the Compliance Officer in writing that: (i) Northrop, as the Prime Contractor, elects not to use the Northrop Payload; or (ii) the Northrop Payload business elects not to supply its Payload to the Northrop Satellite Prime Business; or (iii) Northrop elects not to compete at either the Prime or Payload level. Northrop need not comply with the requirements of Section IV.B after such notice.

C. When the Northrop Payload Business enters into teaming agreements or contracts or similar intra-company arrangements that function as teaming agreements with the Northrop Satellite Prime Business or with any other potentially competing Prime Contractor for any Program or potential future Program, and the team engages in joint investment or development activity for that Program, the provisions in this Final Judgment requiring non-discriminatory behavior shall not require that Northrop disclose the products and/or other results of such joint investments or developments of one team to any other team for the Program or potential future Program.

D. The provision of any information, technology, or product to any party pursuant to this Final Judgment shall be subject to appropriate confidentiality agreements on the treatment of competition-sensitive, national security-sensitive, ITAR-controlled, and/or proprietary information.

E. No provision of this Final Judgment shall require Northrop to provide products, services, or technology to any party without commercially reasonable compensation.

F. Northrop shall maintain the current TRW Space & Electronics Satellite Systems business (''S&E Business'') separate and apart from the Northrop Payload Business. To assure the above. Northrop:

(1) Shall establish a separately protected communications network for the S&E Business as distinct from the Northrop Payload Business:

(2) shall maintain separate physical locations for each such business:

(3) shall use commercially reasonable efforts to avoid transferring employees between the S&E Business and the Northrop Payload Business, and shall not transfer personnel, including employees and independent contractors, between the S&E Business and the Northrop Payload Business without first requiring such transferred personnel to acknowledge the restrictions of this Final Judgment as set forth herein. Records of such transfers, and copies of any such acknowledgments, shall be maintained during the term of this Final Judgment, and shall be available for inspection. Northrop shall notify the Compliance Officer of any such transfers:

(4) shall now allow the S&E Business to provide, disclose, or otherwise make available to the Northrop Payload Business any non-public information of any Payload competitor. All non-public information that a Payload competitor provides to the S&E Business shall be used only in Northrop's capacity as a Prime Contractor. The Northrop Payload Business shall not provide, disclose, or otherwise make avaiable to the S&E Business any non-public information of any Prime Contractor. All non-public information that a Prime Contractor provides to the Northrop Payload Business shall be used only in Northrop's capacity as a Payload supplier; provided, however, that the provisions of this paragraph shall not apply if the owner of the information consents to a broader lawful use of that information.

(5) shall within fifteen (15) business days of the closing of the transaction, submit a detailed plan for maintaining the Northrop Payload Business separate and apart from the S&E Business to the General Counsel of the DoD and the Assistant Attorney General in charge of the Antitrust Division, and the Assistant Attorney General in charge of the Antitrust Division, in consultation with the General Counsel of the DoD, shall in his sole discretion make changes to such plan to ensure compliance with the terms of this Final Judgment; and

(6) provided, that nothing in this Final Judgment shall require a separation of Northrop's Payload team and the team for the S&E Business at the implementation stage of a Program that has been awarded to Northrop at the Prime and Payload level.

G. Northrop shall inform all personnel of both the Northrop Payload Business and the S&E Business of the terms and requirements of this Final Judgment and require all personnel to adhere to such provisions.

H. When this Final Judgment places time limits on certain actions by the Compliance Officer and the Secretary of the Air Force, such limits may be modified by mutual agreement between the Compliance Officer or the Secretary of Air Force and Northrop.

I. (1) Northrop shall bear all its costs of monitoring, complying with, or enforcing this Final Judgment, and all such reasonable costs of the DoD arising solely from monitoring, complying with, or enforcing this Final Judgment, excluding the salaries and benefits of United States government employees, and including but not limited to, the costs of the Compliance Officer and the costs associated with the retention of third parties to assist the Compliance Officer.

(2) Northrop shall not charge to the DoD, either directly or indirectly, any costs of DoD referred to in Section IV.I(1). Northrop shall not charge to DoD, either directly or indirectly, any of Nortrop's costs, referred to in Section IV.I(1), including any remedial costs, as defined by Section IV.I(3); provided, however, that costs referred to in Sectin IV.I(1) incurred by Northrop, other than remedial costs, associated with normal business activities that could reasonably have been undertaken by Northrop in the absence of this Final Judgment are not subject to the

charging restrictions of this Section IV.I(2), whether or not such activities are affected by this Final Judgment; and further provided that, in the event that the Antitrust Division seeks to have the Court find Northrop in contempt or impose civil penalties and the conduct at issue is held by the Court to be compliant with the non-discrimination provisions of this Final Judgment, the remedial costs disallowed pursuant to this Section may be charged to DoD.

(3) remedial costs are those costs, incurred by Northrop, relating directly to the administration of measures to remedy conduct of Northrop in violation of this Final Judgment, where the following conditions are met:

(a) the conduct of Northrop was not undertaken pursuant to prior written direction or approval of the Compliance Officer:

(b) the Secretary of the Air Force has taken action in accordance with Sections IV.A(2) or IV.B(2) indicating concurrence with the Compliance Officer's conclusion that Northrop has engaged in conduct in violation of this Final Judgment with respect to a United States Government Satellite Program; and

(c) said costs are incurred after the date of the Secretary of the Air Force's action.

V. Appointment of Compliance Officer

To effect the procedures set forth in this Final Judgment, the Secretary of Defense shall appoint a Compliance Officer, who shall be an employee of the United States government. The Compliance Officer shall oversee compliance by the defendants with the terms of this Final Judgment, and shall have the power and authority to oversee such compliance and such other powers as this Court deems appropriate.

A. To perform his duties and responsibilities, and subject to any legally recognized privilege, the Compliance Officer may:

(1) Investigate any complaint or representation made to him or made available to him with respect to any matter arising in relation to or connected with compliance by Northrop with this Final Judgment;

(2) interview any Northrop personnel, subject to the reasonable convenience of such personnel, without restraint or interference by Northrop;

(3) during normal business hours, inspect and copy any document in the possession, custody of Northrop;

(4) during normal business hours, obtain reasonable access to any systems or equipment to which Northrop personnel have access;

(5) during normal business hours, obtain access to and inspect any physical facility, building, or other premises to which Northrop personnel have access;

(6) require Northrop to provide compilations of documents, data, and other information to Compliance Officer in such form as the Compliance Officer may direct;

(7) solicit and accept comments from third parties;

(8) utilize DoD or other United States government staff as appropriate to assist in the execution of the Final Judgment;

(9) hire, at the cost and expense of Northrop, a third party (or third parties) to assist in the execution of this Final Judgment, which third party (or third parties) shall be solely accountable to the Compliance Officer, and shall have such duties responsibilities as determined by the Compliance Officer and that do not exceed the Compliance Officer's duties and responsibilities as set forth in the Final Judgment; provided, however, that the professional staff (including third party consultants) reporting to the Compliance Officer shall be no larger than ten (10) persons (measured by full-time equivalents), with such maximum to be expanded solely with the permission of the Secretary of the Air Force as necessary to the execution of this Final Judgment; and provided that such professional staff (including third party consultants) shall maintain the confidentiality of business sensitive or proprietary information and documents of Northrop or any other person; and

(10) advise Northrop as soon as practical of the material nature of assertions or allegations of noncompliance that the Compliance Officer intends to investigate and, within reasonable time limits set by the Compliance Officer, attempt to resolve any deficiencies in Northrop's performing its obligations under this Final Judgment.

B. Defendants shall not object to the Compliance Officer chosen by the Secretary of Defense.

C. Defendants shall use their best efforts to assist the Compliance Officer in accomplishing the procedures established in this Final Judgment. Defendants shall take no action to interfere with or to impede the Compliance Officer's accomplishment of these procedures.

D. Defendants shall furnish to the Compliance Officer a compliance report, to be submitted as directed by the Compliance Officer, but in any event no less frequently than on an annual basis or more frequently than quarterly. The compliance report shall contain an affidavit that describes the actions defendants have taken and the steps defendants have implemented to comply with the terms of this Final Judgment. The Compliance Officer may direct defendants to include in their report any other information the Compliance Officer deems useful or necessary.

E. The Compliance Officer shall report in writing on an annual basis to the Secretary of the Air Force, the General Counsel of the DoD and the Assistant Attorney General in charge of the Antitrust Division a summary of the actions the Compliance Officer has undertaken in performing his duties pursuant to this Final Judgment. Such report shall include any compliance reports submitted by defendants to the Compliance Officer pursuant to Subsection D above. If the Compliance Officer is unable to perform his duties for whatever reason the Compliance Officer shall promptly notify the above individuals. The Secretary of Defense shall then appoint another Compliance Officer. The Secretary of Defense shall have the sole discretion to replace the Compliance Officer at any time when the Secretary of Defense considers such action appropriate.

F. If the Compliance Officer has reason to believe that there has been a failure of the defendants to comply with any term of this Final Judgment, he shall notify the Secretary of the Air Force and the General Counsel of the DoD. As soon as practical, the Compliance Officer shall inform Northrop that he has notified the Secretary of the Air Force and the general Counsel of the DoD of the failure and the material nature of the assertion or allegation of noncompliance.

VI. Compliance

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated and subject to any legally recognized privilege, from time to time duly authorized representatives of the Antitrust Division, including consultants and other persons retained by plaintiff, shall upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice of defendants be permitted:

(1) Access during defendants office hours to inspect and copy or at plaintiff's option to require defendants to provide copies of, all books, ledgers, correspondence, memoranda, accounts, records, and documents in the possession, custody, or control of defendants relating to any matters contained in this Final Judgment; and

(2) To interview, either informally or on the record defendants officers, employees, or agents, who may have their individual counsel present regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of the Attorney general or of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit such written reports under oath if requested, with respect to any matter contained in the Final Judgment and the Stipulation and Order.

C. No information or documents obtained by the means provided in this Section shall be divulged by a representative of plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material. ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules Civil Procedure,'' then ten (10) business days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grant jury proceeding) to which defendants are not a party.

E. When the General Counsel of the DoD has reason to believe that there has been a failure by the defendants to comply with any

term of this Final Judgment, the General Counsel of the DoD shall notify the Assistant Attorney General in charge of the Antitrust Division.

F. The Assistant Attorney General in charge of the Antitrust Division shall have the sole discretion to seek appropriate enforcement of this Final Judgment with the Court, either as the result of a referral or on the Antitrust Division's own initiative.

VII. Civil Penalties

The Court may order Northrop to pay a civil penalty of up to $10 million for each violation of this Final Judgment.

VIII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

IX. Third Party Rights

Nothing in this Final Judgment is intended to confer upon any other persons any rights or remedies of any nature whatsoever hereunder or by reason of this Final Judgment.

X. Expiration of Final Judgment

This Final Judgment shall expire seven (7) years from the date of entry; provided that, before the expiration of this Final Judgment, plaintiff, after consultation with DoD, may petition the Court to extend the Final Judgment for a period of up to three (3) years. In no event shall the terms of this Final Judgment exceed a period of ten (10) years.

XI. Public Interest Determination

Entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

_____

United States District Judge

[FR Doc. 03–623 Filed 1–13–03; 8:45 am]

BILLING CODE 4410–11–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–002)]

NASA Advisory Council, Biological and Physical Research Advisory Committee, Space Station Utilization Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Biological and Physical Research Advisory Committee, Space Station Utilization Advisory Subcommittee (SSUAS).

DATES: Monday, February 3, 2003, 8 a.m. to 5 p.m., and Tuesday, February 4, 2003, 8 a.m. to 5 p.m.

ADDRESSES: South Shore Harbour Resort, 2500 South Shore Blvd., League, Texas 77573.

FOR FURTHER INFORMATION CONTACT: Dr. Neal Pellis, Code U, National Aeronautics and Space Administration, Houston, TX 77058, (281) 483–2357.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting will include the following topics:

- Research Report on Increment Five Research Plans for Increments 6 and 7
- Telecon with Investigators
- Operations Report
- Office of Biological and Physical Research Report
- International Space Station (ISS) Program Status/Plans
- ISS Payloads Office Report
- Response to Prior Recommendations
- Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–658 Filed 1–13–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Partnerships Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Partnerships Advisory Panel (National Services), to the National Council on the Arts will be held by teleconference from 2 p.m. to 3 p.m. on January 21, 2003 from the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

This meeting will be open to the public. Topics will include review of the National Services application and discussion of guidelines and policy issues.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Andi Mathis, State and Regional Specialist, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5430.

Dated: January 9, 2003.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 03–831 Filed 1–13–03; 8:45 am]

BILLING CODE 7537–01–U

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–2]

Virginia Electric and Power Company; Notice of Docketing, Notice of Proposed Action, and Notice of Opportunity for a Hearing for Renewal of Materials License SNM–2501 for the Surry Independent Spent Fuel Storage Installation

The U. S. Nuclear Regulatory Commission (NRC or Commission) is considering an application dated April 29, 2002, for the renewal of materials license SNM–2501 under the provisions of 10 CFR part 72, from Virginia Electric and Power Company (the applicant or Virginia Power) for the receipt, possession, storage and transfer of spent fuel and other radioactive materials associated with spent fuel at the Surry Independent Spent Fuel Storage Installation (ISFSI), located at the Surry Nuclear Power Station site in Surry County, Virginia. If granted, the renewed license will authorize the applicant to continue to store spent fuel in a dry cask storage system at the applicant's Surry ISFSI. Pursuant to the provisions of 10 CFR part 72, the renewal term of the license for the ISFSI would be twenty (20) years; however, the applicant has submitted a separate exemption request with the license renewal application, which, if granted,

would allow the license to be renewed for 40 years.

This application was docketed under 10 CFR part 72; the ISFSI Docket No. is 72–2.

Prior to issuance of the requested license, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The issuance of the renewed materials license will not be approved until the NRC has reviewed the application and has concluded that renewal of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public. The NRC will complete an environmental evaluation, in accordance with 10 CFR part 51, to determine if the preparation of an environmental impact statement is warranted or if an environmental assessment and finding of no significant impact are appropriate. This action will be the subject of a subsequent notice in the **Federal Register**.

By thirty (30) days from the date of publication of this notice in the **Federal Register**, the applicant may file a request for a hearing; and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the subject materials license. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714,[1] which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr*. If there are problems in accessing the document, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to pdr@nrc.gov. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for hearing or petition for leave to intervene is filed by the above date, the NRC may, upon satisfactory completion of all required evaluations, issue the materials license without further prior notice.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend a petition, without requesting leave of the Atomic Safety and Licensing Board up to 15 days prior to the holding of the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk or may be delivered to the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to Mr. David A. Christian, Senior Vice President—Nuclear Operations and Chief Nuclear Officer, Virginia Electric and Power Company, 5000 Dominion Boulevard, Glen Allen, VA 23060–6711. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the NRC by a toll-free telephone call (800–368–5642, Extension 415–8500) to James R. Hall, Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, with the following message: petitioner's name and telephone number; date petition was mailed; facility name; and publication date and page number of this **Federal Register** notice.

Non-timely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for hearing will not be entertained

[1] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (d)(2) regarding petitions to intervene and contentions. For the complete, corrected text of 10 CFR 2.714(d), please see 67 FR 20884 (April 29, 2002).

absent a determination by the Commission, the presiding Officer, or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, shall use hybrid hearing procedures with respect to ''any matter which the Commission determines to be in controversy among the parties.''

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR part 2, subpart K, ''Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors' (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR part 2, Subpart G apply.

For further details with respect to this application, see the application dated April 29, 2002, which is available for public inspection at the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD or from the publicly available records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 2nd day of January 2003.

For the Nuclear Regulatory Commission.

James R. Hall,

Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03–705 Filed 1–13–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Renewal

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of renewal of the Charter of the Advisory Committee on Reactor Safeguards (ACRS).

SUMMARY: The Advisory Committee on Reactor Safeguards was established by Section 29 of the Atomic Energy Act (AEA) in 1954. Its purpose is to provide advice to the Commission with regard to the hazards of proposed or existing reactor facilities, to review each application for a construction permit or operating license for certain facilities specified in the AEA, and such other duties as the Commission may request. The AEA as amended by PL 100–456 also specifies that the Defense Nuclear Safety Board may obtain the advice and recommendations of the ACRS.

Membership on the Committee includes individuals experienced in reactor operations, management; probabilistic risk assessment; analysis of reactor accident phenomena; design of nuclear power plant structures, systems and components; materials science; and mechanical, civil, and electrical engineering.

The Nuclear Regulatory Commission has determined that renewal of the charter for the ACRS until December 19, 2004 is in the public interest in connection with the statutory responsibilities assigned to the ACRS. This action is being taken in accordance with the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Andrew L. Bates, Office of the Secretary, NRC, Washington, DC 20555; telephone: (301) 415–1963.

Dated: January 8, 2003.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 03–708 Filed 1–13–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285]

Omaha Public Power District, Fort Calhoun Station, Unit 1; Notice of Availability of the Draft Supplement 12 to the Generic Environmental Impact Statement and Public Meeting for the License Renewal of Fort Calhoun Station, Unit 1

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has published a draft plant-specific supplement to the Generic Environmental Impact Statement (GEIS), NUREG–1437, regarding the renewal of operating license DPR–40 for an additional 20 years of operation at Fort Calhoun Station, Unit 1. Fort Calhoun Station, Unit 1 is located in Washington County, Nebraska. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

The draft supplement to the GEIS is available electronically for public inspection in the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the Publicly Available Records (PARS) component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web Site at *http://www.nrc.gov/reading-rm.html* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

In addition, the Blair Public Library, 210 South 17th Street, Blair, Nebraska, and the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska have agreed to make the draft supplement to the GEIS available for public inspection.

Any interested party may submit comments on the draft supplement to the GEIS for consideration by the NRC staff. To be certain of consideration, comments on the draft supplement to the GEIS and the proposed action must be received by April 10, 2003. Comments received after the due date will be considered if it is practical to do so, but the NRC staff is able to assure consideration only for comments received on or before this date. Written comments on the draft supplement to the GEIS should be sent to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T–6D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Electronic comments may be submitted to the NRC by the Internet at *Ft_Calhoun_EIS@nrc.gov.* All comments received by the Commission, including those made by Federal, State, and local agencies, Indian tribes, or other interested persons, will be made available electronically at the Commission's PDR in Rockville, Maryland, and from the PARS component of NRC's ADAMS.

The NRC staff will hold a public meeting to present an overview of the draft plant-specific supplement to the GEIS and to accept public comments on the document. The public meeting will be held on February 26, 2003, at the Days Hotel Carlisle, 10909 M Street, Omaha, Nebraska. There will be two sessions to accommodate interested parties. The first session will commence at 1:30 p.m. and will continue until 4:30 p.m. The second session will commence at 7 p.m. and will continue until 10 p.m. Both meetings will be transcribed and will include (1) a presentation of the contents of the draft plant-specific supplement to the GEIS, and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No comments on the draft supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. Persons may pre-register to attend or present oral comments at the meeting by contacting Mr. Jack Cushing by telephone at 1–800–368–5642, extension 1424, or by Internet at *Ft_Calhoun_EIS@nrc.gov* no later than February 21, 2003. Members of the public may also register to provide oral comments within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Cushing's attention no later than February 21, 2003, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

FOR FURTHER INFORMATION, CONTACT: Mr. Jack Cushing, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Mr. Cushing may be contacted at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 6th day of January 2003.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 03–706 Filed 1–13–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request for a License To Export Nuclear Grade Graphite

Pursuant to 10 CFR 110.70(b)(3) ''Public notice of receipt of an application,'' please take notice that the Nuclear Regulatory Commission has received the following request for an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the request to export nuclear grade graphite noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this export request follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, date of application, date received, application No., and docket No.	Description of material			
	Material type	Total qty	End use	Country of destination
SGL Carbon, LLC; November 20, 2002; December 26, 2002; XMAT0404; 11005384.	Nuclear Grade Graphite.	11,617,833.0 Kilograms (over 5 years).	For industrial and commercial non-nuclear end use.	Various.

Dated this 3rd day of January 2003 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Edward T. Baker,

Deputy Director, Office of International Programs.

[FR Doc. 03–709 Filed 1–13–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request for a License To Export Nuclear Grade Graphite

Pursuant to 10 CFR 110.70(b)(3) ''Public notice of receipt of an application,'' please take notice that the Nuclear Regulatory Commission has received the following request for an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the request to export nuclear grade graphite noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this export request follows.

NRC EXPORT LICENSE APPLICATION NUCLEAR GRADE GRAPHITE

Name of applicant, date of application, date received, application No., and docket No.	Description of material			
	Material type	Total qty	End use	Country of destination
SGL Carbon, LLC; November 20, 2002; December 26, 2002; XMAT0403; 11005383.	Nuclear Grade Graphite.	869,000.0 Kilograms.	For industrial and commercial non-nuclear end use.	Canada.

For the Nuclear Regulatory Commission.

Dated this 3rd day of January, 2003 at Rockville, Maryland.

Edward T. Baker,

Deputy Director, Office of International Programs.

[FR Doc. 03–710 Filed 1–13–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Application for a License To Export a Utilization Facility

Pursuant to 10 CFR 110.70(b)(1) ''Public notice of receipt of an application,'' please take notice that the Nuclear Regulatory Commission has received the following request for an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the application for a license to export a utilization facility as defined in 10 CFR Part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility to be exported. The information concerning the application follows.

NRC EXPORT LICENSE APPLICATION FOR A UTILIZATION FACILITY

Name of applicant, date of application, date received, application No. docket No.	Description of facility	End use	Country of destination
Westinghouse Electric Company; December 13, 2002; December 16, 2002; XR167; 11005387.	Equipment including primary coolant pump for construction for four (4) nuclear utilization facilites, 1000 Mwe each. Approximate Value: $450,000,000.00.	Shin Kori 1&2 Shin Wolsong 1&2.	Republic of Korea.

Dated this 7th day of January 2003 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Edward T. Baker,

Deputy Director, Office of International Programs.

[FR Doc. 03–707 Filed 1–13–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of January 13, 20, 27, February 3, 10, 17, 2003.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of January 13, 2003

Tuesday, January 14, 2003.

10 a.m. Discussion of security issues (closed-Ex. 1).

1 p.m. Briefing on NRC Lessons Learned: Davis-Besse Reactor Vessel Head (RVH) Degradation (public meeting).

Note: New starting time for this meeting. (Contact: Stacey Rosenberg, 301–415–1733.)

This meeting will be webcast live at the Web address— *http://www.nrc.gov.*

Week of Janury 20, 2003—Tentative

Thursday, January 23, 2003.

2 p.m. Briefing on status of Office of Nuclear Material Safety and Safeguards (NMSS) programs, performance, and plans—materials safety (public meeting) (contact: Claudia Seelig, 301–415–7243).

This meeting will be webcast at the Web address—*http://www.nrc.gov.*

Week of January 27, 2003—Tentative

There are no meetings scheduled for the week of January 27, 2003.

Week of February 3, 2003—Tentative

Tuesday, February 4, 2003.

10 a.m. Briefing on status of Office of Chief Information Officer (OCIO) programs, performance, and plans (public meeting) (contact: Jackie Silber, 301–415–7330).

This meeting will be webcast at the Web address—*http://www.nrc.gov.*

Week of Februry 10, 2003—Tentative

Monday, February 10, 2003.

10 a.m. Briefing on status of Office of Nuclear Reactor Regulation (NRR) programs, performance, and plans (public meeting) (contact: Michael Case, 301–415–1275).

This meeting will be webcast at the Web address—*http://www.nrc.gov.*

Tuesday, February 11, 2003.

10 a.m. Briefing on status of Office of Chief Financial Officer (OCFO) programs, performance, and plans (public meeting) (contact: Lars Solander, 301–415–6080).

This meeting will be webcast at the Web address—*http://www.nrc.gov.*

Week of February 17, 2003—Tentative

There are no meetings scheduled for the week of February 17, 2003.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information David Louis Gamberoni (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: January 9, 2003.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 03–861 Filed 1–10–03; 12:38 pm]

BILLING CODE 4590–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–13098]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the New York Stock Exchange, Inc. (Case, LLC (Formerly Case Corporation), 7¼% Notes (Due 2016))

January 8, 2003.

Case, LLC (formerly Case Corporation), a limited liability company organized under the laws of the State of Delaware (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its 7¼% Notes (due 2016)(''Security''), from listing and registration on the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'').

Fiatallis North America, Inc., the sole Member of the Issuer (''Sole Member'') approved a resolution on November 29, 2002 to withdraw the Issuer's Security from listing on the NYSE. In making its decision to withdraw the Issuer's Security from the Exchange, the Sole Member noted the following: (i) The Security is held by a limited number of registered holders; (ii) the Security trades infrequently on the NYSE and the Issuer does not anticipate that such trading volume might increase appreciably; (iii) the costs associated with the continued listing of the Security are disproportionately high, given the limited trading volume; (iv) the Issuer is not obligated by the terms of the indenture under which the Security was issued or by any other document to maintain a listing for the Security on the NYSE or any other exchange; (v) the Issuer believes that delisting the Security will not have a material impact on the holders of the Security and; (vi) the Security is not listed on any other exchange. The Issuer has been informed that a number of investment banks are market markers in the Security.

The Issuer stated in its application that it has met the requirements of the NYSE rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the Security's withdrawal from listing on the NYSE and from registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before January 31, 2003, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the NYSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–692 Filed 1–13–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47135; File No. SR–GSCC–2002–10]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Establish a Comprehensive Standard of Care and Limit GSCC's Liability to Its Members

January 7, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 10, 2002, the Government

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78s(b)(1).

Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

GSCC is seeking to establish a comprehensive standard of care and limitation of liability with respect to its members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

GSCC is seeking to establish a comprehensive standard of care and limitation of liability with respect to its members. Historically, the Commission has left to user-governed clearing agencies the question of how to allocate losses associated with, among other things, clearing agency functions.[3] The Commission has reviewed clearing agency services on a case-by-case basis and in determining the appropriate standard of care has balanced the need for a high degree of clearing agency care with the effect the resulting liabilities may have on clearing agency operations, costs, and safekeeping of securities and funds.[4] Because standards of care represent an allocation of rights and liabilities between a clearing agency and its participants, which are sophisticated financial entities, the Commission has refrained from establishing a unique federal standard of care and has allowed clearing agencies and other self-regulatory organizations and their participants to establish their own standard of care.[5]

GSCC believes that adopting a uniform rule[6] limiting GSCC's liability to its members to direct losses caused by GSCC's gross negligence, willful misconduct, or violation of Federal securities laws for which there is a private right of Action: (a) Memorializes an appropriate commercial standard of care that will protect GSCC from undue liability; (b) permits the resources of GSCC to be appropriately utilized for promoting the accurate clearance and settlement of securities; and (c) is consistent with similar rules adopted by other self-regulatory organizations and approved by the Commission.[7]

GSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[8] and the rules and regulations thereunder applicable to GSCC because it will permit the resources of GSCC to be appropriately utilized for promoting the accurate clearance and settlement of securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–GSCC–2002–10. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of GSCC.

[2] The Commission has modified the text of the summaries prepared by GSCC.

[3] Securities Exchange Act Release Nos. 20221 (September 23, 1983), 48 FR 45167 and 22940 (February 24, 1986), 51 FR 7169.

[4] *Id.*

[5] *Id.*

[6] The rule change is as follows: Section 3 '' Limitation on Liability of the Corporation Notwithstanding any other provision in the Rules: (a) The Corporation will not be liable for any action taken, or any delay or failure to take any action, hereunder or otherwise to fulfill the Corporation's obligations to its Members, other than for losses caused directly by the Corporation's gross negligence, willful misconduct, or violation of Federal securities laws for which there is a private right of action. Under no circumstances will the Corporation be liable for the acts, delays, omissions, bankruptcy, or insolvency, of any third party, including, without limitation, any depository, custodian, sub-custodian, clearing or settlement system, transfer agent, registrar, data communication service or delivery service (''Third Party''), unless the Corporation was grossly negligent, engaged in willful misconduct, or in violation of Federal securities laws for which there is a private right of action in selecting such Third Party; and

(b) Under no circumstances will the Corporation be liable for any indirect, consequential, incidental, special, punitive or exemplary loss or damage (including, but not limited to, loss of business, loss of profits, trading losses, loss of opportunity and loss of use) howsoever suffered or incurred, regardless of whether the Corporation has been advised of the possibility of such damages or whether such damages otherwise could have been foreseen or prevented.

[7] *See, e.g.*, Securities Exchange Act Release Nos. 37421 (July 11, 1996), 61 FR 37513 (SR–CBOE–96–02) and 37563 (August 14, 1996), 61 FR 43285 (SR–PSE–96–21).

[8] 15 U.S.C. 78q–1.

All submissions should refer to File No. SR–GSCC–2002–10 and should be submitted by February 4, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–691 Filed 1–13–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47130; File No. SR–NQLX–2003–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Nasdaq Liffe Markets, LLC Proposing To Adopt Listing Standards for Physically-Settled Security Futures Contracts That Have Underlying Securities Constituting Shares of an Exchange-Traded Fund, Registered Closed-End Management Investment Company, or Trust-Issued Receipts

January 6, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–7 under the Act,[2] notice is hereby given that on January 6, 2003, Nasdaq Liffe Markets, LLC (''NQLX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes described in items I, II, and III below, which items have been prepared by the NQLX. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

On January 6, 2003, NQLX submitted the proposed rule change to the Commodities Futures Trading Commission (''CFTC'') for approval. Under section 19(b)(7)(B) of the Act,[3] the proposed rule change may take effect upon approval by the CFTC.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

First, NQLX proposes to adopt rule changes to its listing standards for physically-settled security futures contracts (NQLX rules 902 and 903) that have underlying securities constituting shares of an exchange-traded fund, shares of a registered closed-end management investment company, or trust-issued receipts. Second, NQLX proposes to correct typographical errors and to add clarifying language to certain other provisions of NQLX rules 902 and 903. NQLX believes that these proposed rule changes are consistent with the requirements under section 6(h)(3) of the Act[4] and the criteria under Section 2(a)(1)(D)(i) of the Commodities Exchange Act (''CEA''),[5] as modified by joint orders of the Commission and the CFTC.[6]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NQLX has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in item IV below. These statements are set forth in sections A, B, and C below.

The text of the proposed rule change appears below. New text is in *italics*. Deleted text is in brackets.

Rule 902 Initial Listing Standards: Physically-Settled Security Futures Contract

(a) (1)–(2) No change.

(b) Initial Listing Standards-Underlying Securities are Single Securities: To initially list a physically-settled Security Futures Contract with an underlying single security, the single security must:

(1)–(4) No change.

(5) Have at least seven million shares *or receipts evidencing the underlying security* outstanding owned by Persons that are not required to report their securities holdings pursuant to section 16(a) of the Securities Exchange Act;

(6) Have at least 2,000 holders *when the underlying security is not shares of an exchange-traded fund, shares of a registered closed-end management investment company, or trust-issued receipts;*

(7) *(i)* Have average daily trading volume (in all markets in which the underlying security has traded) of at least 109,000 shares *or receipts evidencing the underlying security in each of the preceding 12 months when the underlying security is not shares of an exchange-traded fund, shares of a registered closed-end management investment company, or trust-issued receipts, or*

(ii) Have total trading volume (in all markets in which the underlying security has traded) of at least 2.4 million shares or receipts evidencing the underlying security in the preceding 12 months when the underlying security is shares of an exchange-traded fund, shares of a registered closed-end management investment company, or trust-issued receipts;

(8) Have a market price per [share] *security* of at least $7.50 (calculated by the lowest closing price reported in any market on which the underlying security traded[,]*)* for the majority of trading days during the three calendar months before listing[)];

(9) No change.

(c)–(e) No change.

Rule 903 Maintenance Listing Standards-Physically-Settled Security Futures Contracts

(a) (1)–(5) No change.

(b) No change.

(c) Maintenance Standards-Underlying Securities are Single Securities Other than Shares of Exchange-Traded Funds, Shares of Registered Closed-End Management Investment Companies, or Trust-Issued Receipts: When the underlying of a physically-settled Security Futures Contract is a single security other than shares of exchange-traded funds, shares of registered closed-end management investment companies, or trust-issued receipts, to list a new delivery month of the Security Futures Contract, the single security must:

(1) Continue to meet the requirements of rule 902(b)(1), (2), and (4)[,]*;*

(2) Have an issuer that meets requirements of rule 902(b)(3) or corrects any applicable reporting failure within 30 days after the required filing date[,]*;*

(3) Have at least 6.3 million shares *or receipts evidencing the underlying security* outstanding owned by Persons other than those required to report their security holdings under section 16(a) of the Securities Exchange Act[,]*;*

(4) Have at least 1,600 holders[,]*;*

(5) Have average daily trading volume (across all markets that trade the underlying security) of at least 82,000 shares *or receipts evidencing the underlying security* in each of the preceding 12 months;

(6) Have a market price per [share] *security* of at least $5.00 on a majority of the trading days during the past six calendar months (measured by the

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 15 U.S.C. 78s(b)(7)(B).

[4] 15 U.S.C. 78f(h)(3).

[5] 7 U.S.C. 2(a)(1)(D)(i).

[6] *See* Joint Order Granting the Modification of Listing Standards Requirements (American Depository Receipts), Securities Exchange Act Release No. 44725 (August 20, 2001), and Joint Order Granting the Modification of Listing Standards Requirements (Exchange Traded Funds, Trust Issued Receipts and shares of Closed-End Funds), Securities Exchange Act Release No. 46090 (June 19, 2002), 67 FR 42760 (June 25, 2002).

highest closing price reported for the underlying security in any market trading the underlying); provided, however, that NQLX may waive this requirement and open for trading a new delivery month of the Security Futures Contract, if:

(i)–(ii) No change.

(iii) The average daily trading volume in the underlying security (in all markets that trade the underlying) has been at least 109,000 shares *or receipts evidencing the underlying security* in each of the prior 12 months; and

(iv) The market price per share of *or receipts evidencing* the underlying security[;]*:*

(A) No change.

(B) Is at least $3.00 on the day NQLX lists the new delivery month for trading[.]*;*

(7) No change.

(d)–(f) No change.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NQLX proposes to adopt revisions to its current listing standards to clarify the particular listing standards applicable when the underlying securities of a security futures contract are shares of exchange-traded funds, trust-issued receipts, or shares of closed-end funds. Specifically, the proposed rule change makes two things clear.[7] First, the requirement that the underlying security be held by at least 2,000 holders does not apply when the underlying securities are shares of exchange-traded funds, trust-issued receipts, or shares of closed-end funds. Second, when the underlying securities are shares of exchange-traded funds, trust-issued receipts, or shares of closed-end funds, instead of requiring an average daily trading volume of at least 109,000 securities in each of the preceding 12 months, the revised rules would require total trading volume of at least 2.4 million securities in the preceding 12 months. The remaining proposed changes correct typographical errors and add clarifying language to certain provisions of NQLX rules 902 and 903.

NQLX believes that its proposed rule changes comply with the requirements under section 6(h)(3) of the Act[8] and the criteria under section 2(a)(1)(D)(i) of the CEA,[9] as modified by joint orders of the Commission and the CFTC, and that its listing standards are no less restrictive than comparable listing standards for options traded on a national securities exchange or national securities association.[10]

2. Statutory Basis

NQLX files these proposed rule changes pursuant to section 19(b)(7) of the Act.[11] NQLX believes that these proposed rule changes are consistent with the requirements of the Commodity Futures Modernization Act of 2000,[12] including the requirement that trading in a listed security futures is not readily susceptible to manipulation of its price nor to causing or being used to manipulate the price of the underlying security, options on the security, or options on a group or index including the security.[13] NQLX further believes that its proposed rule changes comply with the requirements under section 6(h)(3) of the Act[14] and the criteria under section 2(a)(1)(D)(i) of the CEA,[15] as modified by joint orders of the Commission and the CFTC. In addition, NQLX believes that its proposed rule changes are consistent with the provisions of section 6 of the Act,[16] in general, and section 6(b)(5) of the Act,[17] in particular, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

NQLX does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others

NQLX neither solicited nor received written comment on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Concurrent with the filing of the proposed rule change with the Commission, NQLX has filed a written certification with the CFTC under section 5c(c)[18] of the CEA and CFTC regulation part 38.4[19] in which NQLX certifies that its proposed changes to NQLX rules 902 and 903 comply with the CEA. Changes to proposed NQLX rules 902 and 903 are effective the day after their filing with the CFTC.

Within 60 days of the date of effectiveness of the proposed rule changes, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule changes and require that the proposed rule changes be refiled in accordance with the provisions of section 19(b)(1) of the Act.[20]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov.* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of these filings also will be available for inspection and copying at the principal office of NQLX. Electronically submitted comments will be posted on the Commission's website (*http://www.sec.gov*). All submissions should refer to File No. SR–NQLX–2003–01 and should be submitted by February 4, 2003.

[7] NQLX notes that a similar proposal has been adopted by OneChicago, LLC, another designated contract market and national securities exchange currently listing security futures products. *See* Securities Exchange Act Release No. 47114 (December 31, 2002).

[8] 15 U.S.C. 78f(h)(3).

[9] 7 U.S.C. 2(a)(1)(D)(i).

[10] 15 U.S.C. 78f(h)(3)(C).

[11] 15 U.S.C. 78s(b)(7).

[12] Pub. L. 106–554, 114 Stat. 2763 (2000).

[13] 15 U.S.C. 78f(h)(3)(H).

[14] 15 U.S.C. 78f(h)(3).

[15] 7 U.S.C. 2(a)(1)(D)(i).

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(5).

[18] 7 U.S.C. 7a–2(c).

[19] 17 CFR 38.4.

[20] 15 U.S.C. 78s(b)(1).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–669 Filed 1–13–03; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #P003]

State of Arkansas

As a result of the President's major disaster declaration for Public Assistance on January 6, 2003, the U.S. Small Business Administration is activating its disaster loan program only for private non-profit businesses that provide essential services of a governmental nature. I find that Baxter, Clay, Cleburne, Craighead, Fulton, Greene, Independence, Izard, Jackson, Lawrence, Newton, Poinsett, Randolph, Searcy, Sharp, Stone, Van Buren and White Counties in the State of Arkansas constitute a disaster area due to damages caused by a severe ice storm occurring from December 3, 2002, and continuing through December 4, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on March 7, 2003, at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Non-profit organizations without credit available elsewhere	3.324
Non-profit organizations with credit available elsewhere	5.500

The number assigned to this disaster for physical damage is P00311.

Dated: January 7, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59008).

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–677 Filed 1–13–03; 8:45 am]

BILLING CODE 8025–01–P

[21] 17 CFR 200.30–3(a)(75).

SMALL BUSINESS ADMINISTRATION

Region II Regulatory Fairness Board Hearing

The Small Business Administration Region II Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Wednesday, January 29, 2003 at 9 a.m. (EST) at the State House Annex, 4th Floor, Assembly Budget Committee Hearing Room, State Street, Trenton, New Jersey 08650, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Natalie Hall in writing or by fax, in order to be put on the agenda. Natalie Hall, U.S. Small Business Administration, New Jersey District Office, 2 Gateway Center, 15th Floor, Newark, NJ 07102, phone (973) 645–3581, fax (973) 645–6265, e-mail *natalie.hall@sba.gov*.

For more information, see our Web site at *www.sba.gov/ombudsman*.

Dated: January 8, 2003.

Michael L. Barrera,

National Ombudsman.

[FR Doc. 03–715 Filed 1–13–03; 8:45 am]

BILLING CODE 8025–01–U

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, the Paperwork Reduction Act of 1995. The information collection packages that may be included in this notice are for new information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503. Fax: 202–395–6974.

(SSA) Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1300 Annex Bldg., 6401 Security Blvd., Baltimore, MD 21235. Fax: 410–965–6400.

I. The information collection listed below is pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

Statement of Income and Resources—0960–0124. The information collected on form SSA–8010–BK is used in Supplemental Security Income (SSI) claims and redeterminations to obtain information about the income and resources of: Ineligible spouses, parents/spouses of parents, and children living in the claimant's/beneficiary's household; essential persons; and sponsors of aliens (including spouses of sponsors who live with the sponsor). The information is needed to make initial or continuing eligibility determinations for SSI claimants/beneficiaries who are subject to deeming. If eligible, the information is used to determine the amount of the SSI payment. The respondents are persons whose income and/or resources must be considered in determining the eligibility of SSI claimants or beneficiaries.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 341,000.

Frequency of Response: 1.

Average Burden Per Response: 25 minutes.

Estimated Annual Burden: 142,083 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Internet Social Security Disability Report—Child—20 CFR 404.1512 and*

416.912—0960–NEW. SSA is developing an Internet Social Security Disability Report—Child. This Internet application, I3820, will collect information about a child who is applying for disabled child's benefits. It will solicit the details of the child's condition, how the condition affects the child's day-to-day life, and his or her medical treatment sources and/or other medical sources of evidence. Respondents will provide information on the disabled child by completing a series of screens on a personal computer. The information will then be transmitted to SSA electronically. However, until such time as SSA develops an acceptable electronic signature process and implements a Disability Determination Services (DDS) electronic disability process, applicants will also print, sign and mail a text formatted summary of the answers given on I3820. They will also print, sign and mail copies of the medical release form (SSA–827). The information collected on I3820 will be used by the State DDS's to develop medical evidence and to assess the alleged disability. The respondents will be applicants for child's disability benefits who opt to file via the Internet.

Type of Request: New information collection.

Number of Respondents: 52,300.

Frequency of Response: 1.

Average Burden Per Response: 2 hours.

Estimated Annual Burden: 104,600 Hours.

2. *Work Activity Report—Employee—0960–0059.* Form SSA–821–BK collects information that determines whether individuals have worked in employment after becoming disabled and, if so, whether the work is substantial gainful activity. The data is reviewed and evaluated to determine if the recipient continues to meet the disability requirements of the law. The respondents are title II beneficiaries and title XVI recipients.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 300,000.

Frequency of Response: 1.

Average Burden Per Response: 45 minutes.

Estimated Annual Burden: 225,000 hours.

3. *Permanent Residence Under Color of Law—20 CFR, Subpart P, 416.1615 and 416.1618—0960–0451.* Under Public Law (Pub. L.) 104–193, effective August 22, 1996, a noncitizen must be a ''qualified alien'' and meet certain additional requirements in order to be eligible for SSI. This law also established an exception to the new requirements for certain ''nonqualified aliens'' (*i.e.*, noncitizens who are not qualified aliens) who were receiving SSI on August 22, 1996. The exception allowed nonqualified aliens to remain on the rolls until September 30, 1997, at which time benefits would be suspended if the aliens had not acquired qualified alien status. Pub. L. 105–33 extended the suspension date to September 30, 1998, and Pub. L. 105–306, enacted October 28, 1998, provided that nonqualified aliens who were receiving SSI on August 22, 1996, would remain eligible after September 30, 1998, as long as other requirements were met (*e.g.*, income and resources, etc.). SSI eligibility for this group of aliens, ''grandfathered nonqualified aliens,'' would continue to be determined based on the rules governing alien eligibility in effect prior to August 22, 1996, *i.e.*, the PRUCOL standard. Under this standard, PRUCOL aliens must present evidence of their status to SSA at the time of application and periodically thereafter. SSA will verify the validity of the evidence of PRUCOL aliens with the Immigration and Naturalization Service (INS). Based on the INS response, SSA will determine whether the individual is eligible for SSI payments. The respondents are alien applicants for and recipients of SSI payments.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 9,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 750 hours.

4. *Instructions for Completion of Federal Assistance Application—0960–0184.* The information on form SSA–96 will be used to assist the Commissioner in selecting grant proposals for funding based on their technical merits. The information will also assist in evaluating the soundness of the design of the proposed activities, the possibilities of obtaining productive results, the adequacy of resources to conduct the activities and the relationship to other similar activities that have been or are being conducted. The respondents are State and local governments, State-designated protection and advocacy groups, colleges and universities and profit and nonprofit private organizations.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 200.

Frequency of Response: 8.

Average Burden Per Response: 14 hours.

Estimated Annual Burden: 22,400 hours.

5. *Certificate of Election for Reduced Spouse's Benefits—0960–0398.* SSA uses the information on the certificate of election, collected on form SSA–25, as the spouse's request for reduced benefits for the month of filing, and for months preceding the month of filing, as designated by the spouse (but not to exceed 12 months). The spouse must file a certificate of election with SSA to elect reduced benefits, if an entitled spouse (age 62–64) no longer has an entitled child in care. The respondents are individuals or households.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 1,000 hours.

6. *Annual Registration Statement Identifying Separated Participants with Deferred Benefits, Schedule SSA—0960–0606.* Schedule SSA is a form filed annually as part of a series of pension plan documents required by section 6057 of the IRS Code. Administrators of pension benefit plans are required to report specific information on future plan benefits for those participants who left plan coverage during the year. SSA maintains the information until a claim for Social Security benefits has been approved. At that time, SSA notifies the beneficiary of his/her potential eligibility for payments from the private pension plan. The respondents are administrators of pension benefit plans or their service providers employed to prepare the schedule SSA on behalf of the pension benefit plan. Below are the estimates of the cost and hour burdens for completing and filing schedule SSA(s). We have used an average to estimate the hour burden. However, the burden may be greater or smaller depending on whether the respondent is a large or small pension benefit plan and how many schedule SSA's are filed in a given year.

Type of request: Extension of an OMB-approved information collection.

Number of Respondents: 88,000.

Frequency of Response: Annually.

Average Burden Per Respondent: 2.5 hours.

Estimated Annual Burden: 220,000 hours.

Estimated Annual Cost Burden for All Respondents: $12,194,400.

7. *Internet Report of Continuing Disability Interview—20 CFR 404.1589 and 20 CFR 416.989—0960–NEW.*

Background

The Government Paperwork Elimination Act (GPEA) of 1998 directed Federal agencies to develop electronic service delivery instruments as an alternative to traditional paper-based methods. As a result, the Social Security Administration is actively expanding its Internet services to enable citizens to complete the application process as well as to process their requests for post-entitlement transactions online. One of the initiatives in this process is the development of the Internet version of the current paper-based form entitled Report of Continuing Disability Interview, SSA–454–BK, which is used by the agency in the continuing disability review (CDR) process.

The Collection

SSA will use the Internet Report of Continuing Disability Interview (I454) to collect information from individuals receiving disability benefits or their representatives. The information collected will be used to determine whether a person who receives Social Security benefits and/or SSI, based on disability or blindness continues to be disabled. The report will update the record of the disabled individual, providing information on recent medical treatment, vocational and educational experiences, work activity and evaluations of the potential for return to work. On the basis of the responses, additional medical and other evidence is developed to assist SSA in determining whether their disability continues or has ended, and if so when the disability ended. Respondents to I454 are disabled individuals scheduled for CDRs.

Type of request: New information collection.

Number of Respondents: 85,200.

Frequency of Response: 1 per respondent.

Average Burden Per Response: 120 minutes.

Estimated Annual Burden: 170,400 hours.

8. *Vocational Rehabilitation ''301'' Program Development—20 CFR, 404.408, 404.460 & 404.468, Subpart E and 20 CFR, 404.1588, Subpart P–0960–0282.* SSA uses form SSA–4290 to collect information to determine whether an individual, whose disability or blindness has ceased, is eligible for continued benefit payments because of participation in an approved program of vocational rehabilitation services, employment services or other support services. The respondents are State vocational rehabilitation agencies, other public or private providers of vocational rehabilitation services and employment services or other support services.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 8,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 2,000 hours.

9. *Medicaid Use Report, 20 CFR 416.268—0960–0267.* The information required by this regulation is used by SSA to determine if an individual is entitled to special SSI payments. The respondents are SSI recipients whose payments were stopped based on earnings from work.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 60,000.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 3,000 hours.

10. *Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Adult, Form SSA–3988–TEST; Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Child, Form SSA–3989–TEST—20 CFR Subpart B—416.204—0960–0643.*

Background

The Social Security Act mandates periodic redeterminations of the non-medical factors that relate to the SSI recipients' continuing eligibility for SSI payments. Recent SSA studies have indicated that as many as two-thirds of all scheduled redeterminations completed, with the assistance of a SSA employee, did not result in any change in circumstances that affected payment. Therefore, SSA is planning to increase the number of respondents and revise the test methodology of the currently approved test forms. The expansion of the test is needed to further validate whether the test redetermination process actually results in significant operational savings and a decrease in recipient inconvenience, while still timely obtaining the accurate data needed to determine continuing eligibility through the process.

The Collection

A test of forms SSA–3988–TEST and SSA–3989–TEST will be used to determine whether SSI recipients have met and continue to meet all statutory and regulatory non-medical requirements for SSI eligibility, and whether they have been and are still receiving the correct payment amount. The SSA–3988–TEST and SSA–3989–TEST are designed as self-help forms that will be mailed to recipients or to their representative payees for completion and return to SSA. The objectives of the expanded test are to determine the public's ability to understand and accurately complete the test forms. The respondents are recipients of SSI benefits or their representatives. In addition, SSA wants to determine the public's ability to understand and accurately complete a supplemental SSA–3988, which will be directed to a sample of beneficiaries that continue to receive Medicaid, but whose earnings from work are too high to allow payment of SSI benefits.

Type of Request: Revision of an OMB-approved information collection.

	Respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
SSA–3988–TEST	46,500	1	20 min	15,500
SSA–3988–SUP–TEST2	2000	1	21 min	700
SS–3989–TEST	8,500	1	20 min	2,833
Total burden				19,033

11. *Letter to Employer Requesting Information about Wages Earned by a Beneficiary—20 CFR, Subpart I, 404.801—0960–0034.* SSA uses the data collected on form SSA–L725 to establish the exact amount of wages earned by a beneficiary in situations where the information in SSA records is incomplete or has been questioned. The respondents are employers of wage earners whose earnings records are incomplete or have been questioned.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 150,000.

Frequency of Response: 1.

Average Burden Per Response: 40 minutes.

Estimated Annual Burden: 100,000 hours.

12. *Reporting Changes that Affect Your Social Security Payment—20 CFR 404, Subpart D and Subpart E—0960–0073.* SSA uses the information collected on form SSA–1425 to determine continuing entitlement to title II Social Security benefits and to determine the proper benefit amount. The respondents are Social Security beneficiaries who need to report an event that could affect payments.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 70,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 5,833 hours.

13. *Report of New Information in Disability Cases—20 CFR 404, Subpart D & Subpart P—0960–0071.* The information collected on form SSA–612 is used to update the disability records of respondents, based on changes reported. The form is used to gather information on a number of topics that can affect the beneficiary's or the applicant's entitlement to disability benefits. This includes, but is not limited to, information about a return to work, improvement in the medical condition, Workers' Compensation settlements or representative payee issues. The respondents are applicants for and recipients of Title II Disability Benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 27,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 2,250 hours.

Dated: January 7, 2003.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 03–678 Filed 1–13–03; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4248]

Office of the Procurement Executive; 30-Day Notice of Proposed Information Collection: Department of State; Acquisition Regulation (DOSAR); OMB Control Number 1405–0050

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Extension of a currently approved collection.

Originating Office: Bureau of Administration, Office of the Procurement Executive.

Title of Information Collection: Department of State Acquisition Regulation (DOSAR).

Frequency: On occasion.

Form Number: N/A.

Respondents: Any business, other for-profit, individual, not-for-profit, or household organizations wishing to receive Department of State contracts.

Estimated Number of Respondents: 2,790.

Average Hours Per Response: Varies.

Total Estimated Burden: 225,503 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Gladys Gines, Procurement Analyst, Office of the Procurement Executive, 2201 C Street, NW, SA–6, Room 603, U.S. Department of State, Washington, DC 20520; telephone at (703) 516–1691. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on (202) 395–3897.

Dated: December 18, 2002.

Lloyd W. Pratsch,

Procurement Executive, Bureau of Administration, Department of State.

[FR Doc. 03–695 Filed 1–13–03; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending December 27, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2002–14151.
Date Filed: December 23, 2002.
Parties: Members of the International Air Transport Association.
Subject: TC31 North and Central Pacific—TC3–Central America, South America.
PTC31 N&C/CIRC 0228 dated November 19, 2002
TC3–Central America, South America Resolutions r–1–r–14
Tables—PTC31 N&C/CIRC Fares 0096 dated November 26, 2002
Minutes—PTC31 N&C/CIRC 0232 dated December 20, 2002
Intended effective date: April 1, 2003

Docket Number: OST–2002–14164.
Date Filed: December 23, 2002.
Parties: Members of the International Air Transport Association.
Subject:
TC31 North and Central Pacific and TC31 Circle Pacific
PTC31 N&C/CIRC 0224 dated November 19, 2002
PTC31 N&C/CIRC 0225 dated November 19, 2002
PTC31 N&C/CIRC 0226 dated November 19, 2002
PTC31 N&C/CIRC 0227 dated November 19, 2002
PTC31 N&C/CIRC 0229 dated November 19, 2002
Minutes—PTC31 N&C/CIRC 0232 dated December 20, 2002

Tables—PTC31 N&C/CIRC FARES 0093 dated November 26, 2002

PTC31 N&C/CIRC FARES 0094 dated November 26, 2002

PTC31 N&C/CIRC FARES 0095 dated November 26, 2002

Intended effective date: April 1, 2003.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 03–687 Filed 1–13–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending January 3, 2003

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the answer period, DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2002–14178.

Date Filed: December 30, 2002.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 21, 2003.

Description: Application of Israir Airlines and Tourism Ltd., pursuant to 49 U.S.C. 41301, 14 CFR part 211 and subpart B, requesting a foreign air carrier permit enabling Israir to engage in charter foreign air transportation of persons and property between a point or points in Israel and a point or points in the United States and in other charter trips in foreign air transportation, subject to the terms, conditions and limitations of the Department's regulations governing charters.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 03–688 Filed 1–13–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending December 27, 2002

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period, DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2002–14145.

Date Filed: December 23, 2002.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 13, 2003.

Description: Application of Mid-Atlantic Freight, Inc., pursuant to 49 U.S.C. Section 41738 and Subpart B, requesting authority to operate scheduled passenger service as a commuter air carrier between Norfolk, VA, Pine Island, NC and Manteo, NC, with flights beginning and ending in Manteo, NC.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 03–689 Filed 1–13–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Agency Information Collection Activities: Proposed Collection; Comment Request—FRA F 6180.71, U.S. DOT AAR Crossing Inventory Form

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements (ICRs) for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than March 17, 2003.

ADDRESSES: Submit written comments on the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590, or Ms. Debra Steward, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130–0017.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6265 or (202) 493–6170, or e-mail to Mr. Brogan at *robert.brogan@fra.dot.gov*, or to Ms. Debra Steward at *debra.steward@fra.dot.gov*. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Debra Steward, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6139). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically,

FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below is a brief summary of the currently approved information collection activity that FRA will submit for clearance by OMB as required under the PRA:

Title: U.S. DOT–AAR Crossing Inventory Form.

OMB Control Number: 2130–0017.

Form Number: FRA F 6180.71.

Expiration: March 31, 2003.

Type of Request: Revision of a currently approved collection.

Abstract: Form FRA 6180.71 is a voluntary form and is used by States and railroads to periodically update certain cite specific highway-rail crossing information which is then transmitted to FRA for input into the National Inventory File. This information has been collected on the U.S. DOT–AAR Crossing Inventory Form since 1974 and maintained in the National Inventory File database since 1975. The primary purpose of the National Inventory is to provide for the existence of a uniform database which can be merged with accident data and used to analyze information for planning and implementation of crossing safety improvement programs by public, private, and governmental agencies responsible for highway-rail crossing safety. Following the official establishment of the National Inventory in 1975, the Federal Railroad Administration (FRA) assumed the principal responsibility as custodian for the maintenance and continued development of the U.S. DOT/AAR National Highway-Rail Crossing Inventory Program. The major goal of the Program is to provide federal, state, and local governments, as well as the railroad industry, information for the improvement of safety at highway-rail crossings. Good management practices necessitate maintaining the database with current information. The data will continue to be useful only if maintained and updated as inventory changes occur. FRA previously cleared the reporting and recordkeeping burden for this form under Office of Management and Budget (OMB) clearance number 2130–0017. OMB approved the burden for this form through March 31, 2003. Based on the most recent information available, FRA estimates approximately 96,000 updates per year. Although this represents a substantial increase in the number of updates from the previous estimate of responses, the total recordkeeping and reporting burden for this information collection will actually decline by 1,716 hours. The reduction in burden is due to a large increase in the estimated number of electronic records which will be kept over the next three years. FRA is requesting a new three-year approval from OMB for this information collection.

Affected Public: Railroads and State governments.

Estimated Total Number of Responses Per Year: 95,969 updates.

Estimated Response Time per Form: .25 hr. (2,056 form updates); .50 hr. per mass update list (300 mass update lists containing 5,433 updates); .50 hr. per electronic foreign file (700 electronic foreign files containing 77,158 updates); and .03333 hr. per GX computer update (11,322 updates on 36 GX computer disks).

Total Annual Burden: 1,388 hours.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on January 9, 2003.

Kathy A. Weiner,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 03–686 Filed 1–13–03; 8:45 am]

BILLING CODE 4910–06–U

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund: Open Meeting of the Community Development Advisory Board: Change of Meeting Location

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of open meeting; Change of meeting location.

SUMMARY: On December 27, 2002, the Community Development Financial Institutions Fund (the ''Fund'') announced (67 FR 79242) that there will be a meeting of the Community Development Advisory Board on January 21 and 22, 2003. This notice is to announce that the location of the meeting has been changed. The Community Development Advisory Board meeting will be held at the offices of the Fund, which are located at 601 13th Street, NW., Suite 200–South, Washington, DC.

FOR FURTHER INFORMATION, CONTACT: The Office of External Affairs of the Fund, U.S. Department of Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC, 20005, (202) 622–9046 (this is not a toll free number). Other information regarding the Fund and its programs may be obtained through the Fund's Web site at *http://www.cdfifund.gov.*

Authority: 12 U.S.C. 4703; Chapter X, Pub. L. 104–19, 109 Stat. 237.

Tony T. Brown,

Director, Community Development Financial Institutions Fund.

[FR Doc. 03–860 Filed 1–13–03; 8:45 am]

BILLING CODE 4810–70–P

Corrections

Federal Register

Vol. 68, No. 9

Tuesday, January 14, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 021114275–2275–01]

Joint Hurricane Testbed (JHT) Opportunities for Transfer of Research and Technology Into Tropical Cyclone Analysis and Forecast Operations

Correction

In notice document 03–57 beginning on page 359 in the issue of Friday, January 3, 2003, make the following corrections:

1. On page 360, in the first column, under the heading **ADDRESSES**, in the first line, ''Preapplication'' should read, ''Preapplications''.

2. On the same page, in the second column, under the heading **III. Program Description**, in the first paragraph, in the 11th line, ''PIs to responding'' should read, ''PIs responding''.

3. On the same page, in the same column, under the same heading, in the same paragraph, in the 13th line, ''PIs allow'' should read, ''PIs to allow''.

4. On the same page, in the third column, under the same heading, in paragraph (2), in the first line, ''for'' should read, '' by''.

5. On page 362, in the second column, under the heading **VII. Award Period**, in the first paragraph, in the 17th line from the bottom, ''time line.'' should read, ''time line,''.

6. On the same page, in the same column, under the same heading, in the second paragraph, in the fourth line, ''appropriately'' should read, ''approximately''.

7. On page 363, in the third column, under the heading **IX. Evaluation Criteria**, in paragraph D., in the first line, ''Appropriations'' should read, ''Appropriateness''.

8. On the same page, in the same column, under the heading **X. Selection Procedures**, in the first paragraph, in the fourth line from the bottom, ''Directors'' should read, ''Director''.

9. On page 364, in the first column, under the same heading, in the first paragraph, in the seventh line from the bottom, ''applications'' should read, ''applicants''.

[FR Doc. C3–57 Filed 1–13–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,

January 14, 2003

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0060; FRL–7417–8]

RIN 2060–AG67

National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for stationary combustion turbines. We have identified stationary combustion turbines as major sources of hazardous air pollutants (HAP) emissions such as formaldehyde, toluene, benzene, and acetaldehyde. The proposed NESHAP would implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT) for combustion turbines. We estimate that 20 percent of the stationary combustion turbines affected by the proposed rule will be located at major sources. As a result, the environmental, energy, and economic impacts presented in this preamble reflect these estimates. The proposed standards would protect public health by reducing exposure to air pollution, by reducing total national HAP emissions by an estimated 81 tons/year in the 5th year after the standards are promulgated. This action also proposes to add Method 323 of 40 CFR part 63, appendix A for the measurement of formaldehyde emissions from natural gas-fired stationary sources.

DATES: *Comments.* Submit comments on or before February 13, 2003.

Public Hearing. If anyone contacts us requesting to speak at a public hearing by January 24, 2003, we will hold a public hearing on January 29, 2003.

ADDRESSES: Comments may be submitted by mail (in duplicate, if possible) to EPA West (Air Docket), U.S. EPA (MD–6102T), Room B–108, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OAR–2002–0060. By hand delivery/courier, comments may be submitted (in duplicate, if possible) to EPA Docket Center (Air Docket), U.S. EPA, MD–6102T), Room B–108, 1301 Constitution Avenue, NW., Washington, DC 20460, Attention Docket ID No. OAR–2002–0060. Comments may be submitted electronically according to the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section.

Public Hearing. If a public hearing is held, it will be held at the new EPA facility complex in Research Triangle Park, North Carolina.

Docket. Docket No. OAR–2002–0060 contains supporting information used in developing the standards. The docket is located at the U.S. EPA, 1301 Constitution Avenue, NW., Washington, DC 20460 in room B102, and may be inspected from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Sims Roy, Combustion Group, Emission Standards Division (MD–C439–01), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5263; facsimile number (919) 541–5450; electronic mail address *roy.sims@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action include:

Category	SIC	NAICS	Examples of regulated entities
Any industry using a stationary combustion turbine as defined in the regulation.	4911	2211	Electric power generation, transmission, or distribution.
	4922	486210	Natural gas transmission.
	1311	211111	Crude petroleum and natural gas production.
	1321	211112	Natural gas liquids producers.
	4931	221	Electric and other services combined.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.6085 of the proposed rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0060. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B108, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify

whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. The EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' The EPA is not required to consider these late comments. However, late comments may be considered if time permits. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. The EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. OAR–2002–0060. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

Comments may be sent by electronic mail (e-mail) to *a-and-r-docket@epa.gov*, Attention Docket ID No. OAR–2002–0060. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket.

You may submit comments on a disk or CD ROM that you mail to the mailing address identified below. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

By Mail. Send your comments (in duplicate if possible) to: Air and Radiation Docket and Information Center, U.S. EPA, Mailcode: 6102T, 1200 Pennsylvania Ave., NW, Washington, DC, 20460, Attention Docket ID No. OAR–2002–0060. The EPA requests a separate copy also be sent to the contact person listed above (see **FOR FURTHER INFORMATION CONTACT**).

By Hand Delivery or Courier. Deliver your comments to: EPA Docket Center, Room B108, 1301 Constitution Ave., NW, Washington, DC, 20460, Attention Docket ID No. OAR–2002–0060. Such deliveries are only accepted during the Docket's normal hours of operation as identified above.

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: Mr. Sims Roy, c/o OAQPS Document Control Officer (Room C404–2), U.S. EPA, Research Triangle Park, 27711, Attention Docket ID No. OAR–2002–0060. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CDROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Mrs. Kelly Hayes, Combustion Group, Emission Standards Division (MD–C439–01), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5578 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Mrs. Hayes to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposed rule. If a public hearing is requested and held, EPA will ask clarifying questions during the oral presentation but will not respond to the presentations or comments. Written statements and supporting information will be considered with equivalent weight as any oral statement and supporting information presented at a public hearing, if held.

Outline. The information presented in this preamble is organized as follows:

I. Background

A. What Is the Regulatory Development Background of the Source Category?

In September 1996, we chartered the Industrial Combustion Coordinated Rulemaking (ICCR) advisory committee under the Federal Advisory Committee Act (FACA). The committee's objective was to develop recommendations for regulations for several combustion source categories under sections 112 and 129 of the CAA. The ICCR advisory committee, also known as the Coordinating Committee, formed Source Work Groups for the various combustor types covered under the ICCR. One work group, the Combustion Turbine Work Group, was formed to research issues related to stationary combustion turbines. The Combustion Turbine Work Group submitted recommendations, information, and data analyses to the Coordinating Committee, which in turn considered them and submitted recommendations and information to us. The Committee's 2-year charter expired in September 1998. We considered the Committee's recommendations in developing the proposed rule for stationary combustion turbines.

B. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The stationary turbine source category was listed on July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit greater than 10 ton/yr of any one HAP or 25 ton/yr of any combination of HAP.

C. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better controlled and lower emitting sources in each source category or subcategory. For new sources, the MACT standards cannot be less stringent than the emission control that is achieved in practice by the best controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources in the category or subcategory (or the best performing 5 sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions

reductions, any nonair quality health and environmental impacts, and energy requirements.

D. What Are the Health Effects Associated With HAP From Stationary Combustion Turbines?

Emission data collected during development of the proposed NESHAP show that several HAP are emitted from stationary combustion turbines. These HAP emissions are formed during combustion or result from HAP compounds contained in the fuel burned.

Among the HAP which have been measured in emission tests that were conducted at natural gas fired and distillate oil fired combustion turbines are: 1,3 butadiene, acetaldehyde, acrolein, benzene, ethylbenzene, formaldehyde, naphthalene, poly aromatic hydrocarbons (PAH) propylene oxide, toluene, and xylenes. Metallic HAP from distillate oil fired stationary combustion turbines that have been measured are: arsenic, beryllium, cadmium, chromium, lead, manganese, mercury, nickel, and selenium.

Although numerous HAP may be emitted from combustion turbines, only a few account for essentially all the mass of HAP emissions from stationary combustion turbines. These HAP are: formaldehyde, toluene, benzene, and acetaldehyde.

The HAP emitted in the largest quantity is formaldehyde. Formaldehyde is a probable human carcinogen and can cause irritation of the eyes and respiratory tract, coughing, dry throat, tightening of the chest, headache, and heart palpitations. Acute inhalation has caused bronchitis, pulmonary edema, pneumonitis, pneumonia, and death due to respiratory failure. Long-term exposure can cause dermatitis and sensitization of the skin and respiratory tract.

Other HAP emitted in significant quantities from stationary combustion turbines include toluene, benzene, and acetaldehyde. The health effect of primary concern for toluene is dysfunction of the central nervous system (CNS). Toluene vapor also causes narcosis. Controlled exposure of human subjects produced mild fatigue, weakness, confusion, lacrimation, and paresthesia; at higher exposure levels there were also euphoria, headache, dizziness, dilated pupils, and nausea. After effects included nervousness, muscular fatigue, and insomnia persisting for several days. Acute exposure may cause irritation of the eyes, respiratory tract, and skin. It may also cause fatigue, weakness, confusion, headache, and drowsiness. Very high concentrations may cause unconsciousness and death.

Benzene is a known human carcinogen. The health effects of benzene include nerve inflammation, CNS depression, and cardiac sensitization. Chronic exposure to benzene can cause fatigue, nervousness, irritability, blurred vision, and labored breathing and has produced anorexia and irreversible injury to the blood-forming organs; effects include aplastic anemia and leukemia. Acute exposure can cause dizziness, euphoria, giddiness, headache, nausea, staggering gait, weakness, drowsiness, respiratory irritation, pulmonary edema, pneumonia, gastrointestinal irritation, convulsions, and paralysis. Benzene can also cause irritation to the skin, eyes, and mucous membranes.

Acetaldehyde is a probable human carcinogen. The health effects for acetaldehyde are irritation of the eyes, mucous membranes, skin, and upper respiratory tract, and it is a CNS depressant in humans. Chronic exposure can cause conjunctivitis, coughing, difficult breathing, and dermatitis. Chronic exposure may cause heart and kidney damage, embryotoxicity, and teratogenic effects. Acetaldehyde is a potential carcinogen in humans.

II. Summary of the Proposed Rule

A. Am I Subject to the Proposed Rule?

The proposed rule applies to you if you own or operate a stationary combustion turbine which is located at a major source of HAP emissions. A major source of HAP emissions is a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year.

Section 112(n)(4) of the CAA requires that the aggregation of HAP for purposes of determining whether an oil and gas production facility is major or nonmajor be done only with respect to particular sites within the source and not on a total aggregated site basis. We incorporated the requirements of section 112(n)(4) of the CAA into our NESHAP for Oil and Natural Gas Production Facilities in subpart HH of part 63. As in subpart HH, we plan to aggregate HAP emissions for the purposes of determining a major HAP source for turbines only with respect to particular sites within an oil and gas production facility. The sites are called surface sites and may include a combination of any of the following equipment; glycol dehydrators, tanks which have potential for flash emissions, reciprocating internal combustion engines and combustion turbines.

Six subcategories have been defined within the stationary combustion turbine source category. While all stationary combustion turbines are subject to the proposed rule, each subcategory has distinct requirements. For example, existing diffusion flame combustion turbines and stationary combustion turbines with a rated peak power output of less than 1.0 megawatt (MW) (at International Organization for Standardization (ISO) standard day conditions) are not required to comply with emission limitations, recordkeeping or reporting requirements in the proposed rule. New or reconstructed stationary combustion turbines and existing lean premix stationary combustion turbines with a rated peak power output of 1.0 MW or more that either operate exclusively as an emergency stationary combustion turbine, as a limited use stationary combustion turbine, or as a stationary combustion turbine which burns landfill gas or digester gas as its primary fuel must only comply with the initial notification requirements. New or reconstructed diffusion flame or lean premix combustion turbines must comply with emission limitations, recordkeeping and reporting requirements in the proposed rule. The emission limitations for each subcategory are summarized in Table 2 of this preamble. You must determine your source's subcategory to determine which requirements apply to your source.

The proposed rule does not apply to stationary combustion turbines located at an area source of HAP emissions. An area source of HAP emissions is a plant site that does not emit any single HAP at a rate of 10 tons (9.07 megagrams) or greater per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or greater per year. To determine whether a facility is a major source, EPA will accept HAP emissions estimated using HAP emission factors listed in Table 1 of this preamble.

TABLE 1.—SUMMARY OF HAP EMISSION FACTORS

Turbine	Load	Fuel	HAP emission factor (lb/MMBtu)
Diffusion Flame	All loads	Natural Gas	0.0188
Diffusion Flame	>80%	Natural Gas	0.00479
Diffusion Flame	All loads	Diesel	0.00241
Diffusion Flame	>80%	Diesel	0.00233
Lean Premix	All loads	Natural Gas	0.000644
Lean Premix	>80%	Natural Gas	0.000212

If the turbine mainly operates at high load, the emission factor for greater than 80 percent load should be used. If the turbine operates on varying loads, the emission factor for all loads should be used. Emission factors were developed based on data from the combustion turbines emissions database. A copy of the emissions database may be downloaded off the internet at *http://www.epa.gov/ttn/atw/combust/turbine/turbpg.html.*

The proposed rule does not cover duct burners. They are part of the waste heat recovery unit in a combined cycle system. Waste heat recovery units, whether part of a cogeneration system or a combined cycle system, are steam generating units and are not covered by the proposed rule.

Finally, the proposed rule does not apply to stationary combustion engine test cells/stands since these facilities will be covered by another NESHAP, 40 CFR part 63, subpart PPPPP.

B. What Source Categories and Subcategories Are Affected by the Proposed Rule?

The proposed rule covers stationary combustion turbines. A stationary combustion turbine is any simple cycle stationary combustion turbine, any regenerative/recuperative cycle stationary combustion turbine, the combustion turbine portion of any stationary cogeneration cycle combustion system, or the combustion turbine portion of any stationary combined cycle steam/electric generating system. Stationary means that the combustion turbine is not self propelled or intended to be propelled while performing its function. The combustion turbine may, however, be mounted on a vehicle for portability or transportability.

Stationary combustion turbines have been divided into the following six subcategories: (1) Emergency stationary combustion turbines, (2) limited use stationary combustion turbines, (3) stationary combustion turbines which fire landfill gas or digester gas as their primary fuel, (4) stationary combustion turbines of less than 1 MW rated peak power output, (5) stationary diffusion flame combustion turbines, and (6) stationary lean premix combustion turbines.

An emergency stationary combustion turbine means any stationary combustion turbine that operates as a mechanical or electrical power source when the primary power source for a facility has been rendered inoperable by an emergency situation. One example is emergency power for critical networks or equipment when electric power from the normal source of power is interrupted. Another example is to pump water in the case of fire or flood. Peaking units at electric utilities and other types of stationary combustion turbines that typically operate at low capacity factors, but are not confined to operation in an emergency, are not emergency stationary combustion turbines.

A limited use stationary combustion turbine means any stationary combustion turbine that operates 50 hours or less per calendar year. One example is a stationary combustion turbine used to stabilize electrical power voltage and protect sensitive electronic equipment during periods of brown outs. Another example is periodic operation of an emergency stationary combustion turbine to check readiness or perform maintenance checks. Since electrical power has not been interrupted during these readiness and maintenance checks, the stationary combustion turbine is not operating as an emergency stationary combustion turbine.

We are specifically soliciting comments on creating a subcategory of limited use combustion turbines with a capacity utilization of 10 percent or less. This is further discussed in the ''Solicitation of Comments and Public Participation'' section of this preamble.

Stationary combustion turbines which fire landfill gas or digester gas as their primary fuel qualify as a separate subcategory because the types of control available for these turbines are limited.

Stationary combustion turbines of less than 1 MW rated peak power output were also identified as a subcategory. These small stationary combustion turbines are few in number and, to our knowledge, none use emission control technology to reduce HAP. Given the very small size of these stationary combustion turbines and the lack of application of HAP emission control technologies, we have concerns about the applicability of HAP emission control technology to them.

The stationary diffusion flame combustion turbines subcategory includes only diffusion flame combustion turbines that are greater than 1 MW rated peak power output and are not emergency stationary combustion turbines, limited use stationary combustion turbines, or stationary combustion turbines which fire landfill gas or digester gas as their primary fuel. In a diffusion flame combustor, the fuel and air are injected at the combustor and are mixed only by diffusion prior to ignition. Hazardous air pollutants emissions from these turbines can be significantly decreased with the addition of air pollution control equipment.

The stationary lean premix combustion turbines subcategory includes only lean premix combustion turbines that are greater than 1 MW rated peak power output and are not emergency stationary combustion turbines, limited use stationary combustion turbines, or stationary combustion turbines which fire landfill gas or digester gas as their primary fuel. Lean premix technology, introduced in the 1990's, was developed to reduce NO_X emissions without the use of add on controls. In a staged lean premix combustor, the air and fuel are thoroughly mixed to form a lean mixture before delivery to the combustor. The staged entry limits the flame temperature and the residence time at the peak flame temperature. Lean premix combustors emit lower levels of NO_X, carbon monoxide (CO), formaldehyde and other HAP than diffusion flame combustion turbines.

C. What Are the Primary Sources of HAP Emissions and What Are the Emissions?

The sources of emissions are the exhaust gases from combustion of gaseous and liquid fuels in a stationary combustion turbine. Hazardous air pollutants that are present in the exhaust gases from stationary combustion turbines include formaldehyde, toluene, benzene, and acetaldehyde.

D. What Are the Emission Limitations and Operating Limitations?

As the owner or operator of an existing lean premix stationary combustion turbine or a new or reconstructed stationary combustion turbine located at a major source of HAP emissions, you must comply with one of the following two emission limitations by the effective date of the standard (or upon startup if you start up your stationary combustion turbine after the effective date of the standard): (1) Reduce CO emissions in the exhaust from the new or reconstructed stationary combustion turbine by 95 percent or more, if you use an oxidation catalyst emission control device; or (2) reduce the concentration of formaldehyde in the exhaust from the new or reconstructed stationary combustion turbine to 43 parts per billion by volume or less, dry basis (ppbvd), at 15 percent oxygen, if you use means other than an oxidation catalyst emission control device.

There are no operating limitations if you choose to comply with the emission limitation for CO emission reduction. If you comply with the emission limitation for formaldehyde emissions and your stationary combustion turbine is not lean premix or diffusion flame, you must comply with any additional operating limitations approved by the Administrator, as discussed later.

Finally, as mentioned earlier, stationary combustion turbines with a rated peak power output of less than 1.0 MW, emergency stationary combustion turbines, limited use stationary combustion turbines, and stationary combustion turbines which burn landfill gas or digester gas as their primary fuel, are not required to comply with these emission limitations. In addition, existing diffusion flame stationary combustion turbines, are not required to comply with these emission limitations. The emission limitations for each subcategory are summarized in Table 2 of this preamble.

TABLE 2.—SUMMARY OF EMISSION LIMITATIONS

Subcategory	Emission limitation	Comment
Existing Diffusion Flame Stationary Combustion Turbine ≥ 1.0 MW.	None	No requirements.
Existing Lean Premix Stationary Combustion Turbine ≥ 1.0 MW.	(1) Reduce CO emissions by 95% or more, if you use an oxidation catalyst emission control device. or (2) Reduce the concentration of formaldehyde to 43 ppbvd @ 15% O_2, if you use means other than an oxidation catalyst emission control device.	
or New/Reconstructed Stationary Combustion Turbine ≥ 1.0 MW.		
Emergency Stationary Combustion Turbine or Limited Use Stationary Combustion Turbine or Landfill/Digester Gas Stationary Combustion Turbine.	No emission limitations	Initial notification requirements only.
≤ 1 MW Stationary Combustion Turbine	None	No requirements.

E. What Are the Initial Compliance Requirements?

The initial compliance requirements for a stationary combustion turbine vary depending on the subcategory of your combustion turbine and your control strategy.

If you operate a new or reconstructed stationary combustion turbine and comply with the emission limitation for CO emission reduction, you must install a continuous emission monitoring system (CEMS) to measure CO and either carbon dioxide or oxygen simultaneously at the inlet and outlet of the oxidation catalyst emission control device. To demonstrate initial compliance, you must conduct an initial performance evaluation using Performance Specifications 3 and 4A of 40 CFR part 60, appendix B. You must demonstrate that the reduction of CO emissions is at least 95 percent using the first 4-hour average after a successful performance evaluation. Your inlet and outlet measurements must be on a dry basis and corrected to 15 percent oxygen or equivalent carbon dioxide content. You must also conduct an annual relative accuracy test audit (RATA) of the CEMS using Performance Specifications 3 and 4A of 40 CFR part 60, appendix B.

If you operate a new or reconstructed combustion turbine or an existing lean premix combustion turbine and comply with the emission limitation for formaldehyde emissions, you must conduct an initial performance test using Test Method 320 of 40 CFR part 63, appendix A; ARB Method 430 of California Environmental Protection Agency, Air Resources Board, 2020 L Street, Sacramento, CA 95812; or EPA Solid Waste (SW)–846 Method 0011 to demonstrate that the outlet concentration of formaldehyde is 43 ppbvd or less (corrected to 15 percent oxygen). Natural gas-fired sources may also use the proposed Test Method 323 of 40 CFR part 63, appendix A, to measure formaldehyde. To correct to 15 percent oxygen, dry basis, you must measure oxygen using Method 3A or 3B of 40 CFR part 60, appendix A, and moisture using Method 4 of 40 CFR part 60, appendix A.

As stated previously, if you choose to comply with the emission limitation for formaldehyde emissions and your stationary combustion turbine is not lean premix or diffusion flame, you must also petition the Administrator for approval of operating limitations or approval of no operating limitations.

If you petition the Administrator for approval of operating limitations, your petition must include the following: (1) Identification of the specific parameters

you propose to use as operating limitations; (2) a discussion of the relationship between these parameters and HAP emissions, identifying how HAP emissions change with changes in these parameters and how limitations on these parameters will serve to limit HAP emissions; (3) a discussion of how you will establish the upper and/or lower values for these parameters which will establish the limits on these parameters in the operating limitations; (4) a discussion identifying the methods you will use to measure and the instruments you will use to monitor these parameters, as well as the relative accuracy and precision of these methods and instruments; and (5) a discussion identifying the frequency and methods for recalibrating the instruments you will use for monitoring these parameters.

If you petition the Administrator for approval of no operating limitations, your petition must include the following: (1) Identification of the parameters associated with operation of the stationary combustion turbine and any emission control device which could change intentionally (*e.g.,* operator adjustment, automatic controller adjustment, etc.) or unintentionally (*e.g.,* wear and tear, error, etc.) on a routine basis or over time; (2) a discussion of the relationship, if any, between changes in these parameters and changes in HAP emissions; (3) for those parameters with a relationship to HAP emissions, a discussion of whether establishing limitations on these parameters would serve to limit HAP emissions; (4) for those parameters with a relationship to HAP emissions, a discussion of how you could establish upper and/or lower values for these parameters which would establish limits on these parameters in operating limitations; (5) for those parameters with a relationship to HAP emissions, a discussion identifying the methods you could use to measure these parameters and the instruments you could use to monitor them, as well as the relative accuracy and precision of these methods and instruments; (6) for these parameters, a discussion identifying the frequency and methods for recalibrating the instruments you could use to monitor them; and (7) a discussion of why, from your point of view, it is infeasible or unreasonable to adopt these parameters as operating limitations.

F. What Are the Continuous Compliance Provisions?

Several general continuous compliance requirements apply to stationary combustion turbines required to comply with the emission limitations. You are required to comply with the emission limitations and the operating limitations (if applicable) at all times, except during startup, shutdown, and malfunction of your stationary combustion turbine. You must also operate and maintain your stationary combustion turbine, air pollution control equipment, and monitoring equipment according to good air pollution control practices at all times, including startup, shutdown, and malfunction. You must conduct all monitoring at all times that the stationary combustion turbine is operating, except during periods of malfunction of the monitoring equipment or necessary repairs and quality assurance or control activities, such as calibration checks.

To demonstrate continuous compliance with the CO emission reduction limitation, you must calibrate and operate your CEMS according to the requirements in 40 CFR 63.8. You must continuously monitor and record the CO concentration before and after the oxidation catalyst emission control device and calculate the percent reduction of CO emissions hourly. The reduction in CO emissions must be 95 percent or more, based on a rolling 4-hour average, averaged every hour.

To demonstrate continuous compliance with the operating limitations (if applicable), you must continuously monitor the values of any parameters which have been approved by the Administrator as operating limitations.

The proposed rule does not require your lean premix combustion turbine to demonstrate continuous compliance. It is assumed that if you meet the low NO_X emission levels required by your federally enforceable permit (or guaranteed by the turbine manufacturer if there is no permit level), your turbine is in compliance with the 43 ppbvd formaldehyde emission limit.

G. What Monitoring and Testing Methods Are Available to Measure These Low Concentrations of CO and Formaldehyde?

Continuous emissions monitoring systems are available which can accurately measure CO emission reduction at the low concentrations found in the combustion turbine exhaust following an oxidation catalyst emission control device. Our performance specification for CO CEMS (PS–4A) of 40 CFR part 60, appendix A, however, has not been updated recently and does not reflect the performance capabilities of these systems. We are currently undertaking a review of PS–4A of 40 CFR part 60, appendix A, for CO CEMS and, in conjunction with this effort, we solicit comments on the performance capabilities of CO CEMS and their ability to accurately measure the low concentrations of CO experienced in the exhaust of a combustion turbine following an oxidation catalyst emission control device.

Similarly, our Fourier Transform Infrared (FTIR) test method, Method 320 of 40 CFR part 63, appendix A, as well as EPA SW–846 Method 0011 and CARB Method 430, can be used to accurately measure formaldehyde concentrations in the exhaust of a combustion turbine as low as 43 ppbvd. As these test methods are currently written, however, they do not provide for this level of accuracy. These methods must be used with some revisions to achieve such accuracy.

As a result, we are currently undertaking a review of our FTIR method, Method 320 of 40 CFR part 63, appendix A, to incorporate revisions to ensure it can be used to accurately measure formaldehyde concentrations as low as 43 ppbvd in the exhaust from a combustion turbine. In conjunction with this effort, we solicit comments on revisions to Method 320 of 40 CFR part 63, appendix A, to ensure accurate measurement of such low concentrations of formaldehyde.

We are also proposing to add Method 323 of 40 CFR part 63, appendix A. Method 323 is for the measurement of formaldehyde emissions from natural gas-fired stationary sources using acetyl acetone derivitization. We solicit comments on the use of this method to measure low concentrations of formaldehyde.

H. What Are the Notification, Recordkeeping and Reporting Requirements?

You must submit all of the applicable notifications as listed in the NESHAP General Provisions (40 CFR part 63, subpart A), including an initial notification, notification of performance test or evaluation, and a notification of compliance, for each stationary combustion turbine which must comply with the emission limitations. If your new or reconstructed source is located at a major source, has greater than 1 MW rated peak power output, and is an emergency stationary combustion turbine, limited use stationary combustion turbine or a combustion turbine which fires landfill or digester gas as its primary fuel, you must submit only an initial notification.

For each combustion turbine subject to the emission limitations, you must

record all of the data necessary to determine if you are in compliance with the emission limitations. Your records must be in a form suitable and readily available for review. You must also keep each record for 5 years following the date of each occurrence, measurement, maintenance, report, or record. Records must remain on site for at least 2 years and then can be maintained off site for the remaining 3 years.

You must submit a compliance report semiannually for each new or reconstructed stationary combustion turbine that must comply with the CO emission reduction limitation. This report must contain the company name and address, a statement by a responsible official that the report is accurate, a statement of compliance, or documentation of any deviation from the requirements of the proposed rule during the reporting period.

III. Rationale for Selecting the Proposed Standards

A. How Did We Select the Source Category and Any Subcategories?

Stationary combustion turbines can be major sources of HAP emissions and, as a result, we listed them as a major source category for regulatory development under section 112 of the CAA. Section 112 of the CAA allows us to establish subcategories within a source category for the purpose of regulation. Consequently, we evaluated several criteria associated with stationary combustion turbines which might serve as potential subcategories.

We identified six subcategories of stationary combustion turbines located at major sources: (1) Emergency stationary combustion turbines, (2) limited use stationary combustion turbines, (3) stationary combustion turbines which fire landfill gas or digester gas as their primary fuel, (4) stationary combustion turbines of less than 1 MW rated peak power output, (5) stationary diffusion flame combustion turbines, and (6) stationary lean premix combustion turbines.

Stationary combustion turbines can be classified as either diffusion flame or lean premix. We examined formaldehyde test data for both diffusion flame and lean premix stationary combustion turbines and observed that uncontrolled formaldehyde emissions for stationary lean premix combustion turbines are significantly lower than those of stationary diffusion flame combustion turbines. An analysis of the formaldehyde emissions data shows that uncontrolled formaldehyde emissions from stationary lean premix combustion turbines are comparable to controlled formaldehyde emissions from stationary diffusion flame combustion turbines controlled with oxidation catalyst systems. Due to the difference in the two technologies, we decided to establish subcategories for diffusion flame and lean premix stationary combustion turbines.

We identified emergency stationary combustion turbines as a subcategory. Emergency stationary combustion turbines operate only in emergencies, such as a loss of power provided by another source. These types of stationary combustion turbines operate infrequently and, when called upon to operate, must respond without failure and without lengthy periods of startup. These conditions limit the applicability of HAP emission control technology to emergency stationary combustion turbines.

Limited use stationary combustion turbines were also identified as a subcategory. These types of stationary combustion turbines are operated 50 hours per calendar year or less. They are used primarily to stabilize electrical power voltage levels during periods of brown outs to prevent damage to sensitive electronic equipment. As with emergency stationary combustion turbines, they are operated infrequently and, when called upon to operate, must respond without failure and without lengthy periods of startup. These conditions limit the applicability of HAP emission control technology.

Similarly, stationary combustion turbines which fire landfill gas or digester gas as their primary fuel were identified as a subcategory. Landfill and digester gases contain a family of chemicals referred to as siloxanes, which limit the application of HAP emission control technology.

Stationary combustion turbines of less than 1 MW rated peak power output were also identified as a subcategory. We believe these small stationary combustion turbines are few in number and, to our knowledge, none use emission control technology to reduce HAP. Given the very small size of these stationary combustion turbines and the lack of application of HAP emission control technologies, we have concerns about the applicability of HAP emission control technology to them.

B. What About Stationary Combustion Turbines Located at Area Sources?

The proposed rule does not apply to stationary combustion turbines located at an area source of HAP emissions. In developing our Urban Air Toxics Strategy, we identified area sources we believe warrant regulation to protect the environment and the public health and satisfy the statutory requirements in section 112 of the CAA pertaining to area sources. Stationary combustion turbines located at area sources were not included on that list. As a result, the proposed rule does not apply to these stationary combustion turbines.

C. What Is the Affected Source?

The proposed rule applies to any stationary combustion turbine located at a major source. Consequently, stationary combustion turbines located at major sources of HAP emissions are the affected source under the proposed rule.

D. How Did We Determine the Basis and Level of the Proposed Emission Limitations for Existing Sources?

As established in section 112 of the CAA, the MACT standards must be no less stringent than the MACT floor. The MACT floor for existing sources is the average emission limitation achieved by the best performing 12 percent of existing sources.

1. MACT Floor for Existing Diffusion Flame Combustion Turbines

To determine the MACT floor for existing stationary diffusion flame combustion turbines, we primarily consulted two databases: an inventory database and an emissions database. The MACT floors and MACT for stationary diffusion flame combustion turbines located at major sources were developed through the analyses of these databases.

The inventory database provides population information on stationary combustion turbines in the United States (U.S.) and was constructed in order to support the proposed rulemaking. Data in the inventory database are based on information from available databases, such as the Aerometric Information Retrieval System (AIRS), the Ozone Transport and Assessment Group (OTAG), and State and local agencies' databases. The first version of the database was released in 1997. Subsequent versions have been released reflecting additional or updated data. The most recent release of the database is version 4, released in November 1998.

The inventory database contains information on approximately 4,800 stationary combustion turbines. The current stationary combustion turbine population is estimated to be about 8,000 turbines. Therefore, the inventory database represents about 60 percent of the stationary combustion turbines in the U.S. At least 90 percent of those turbines are assumed to be diffusion flame combustion turbines, based on

conversations with turbine manufacturers.

The information contained in the inventory database is believed to be representative of stationary combustion turbines primarily because of its comprehensiveness. The database includes both small and large stationary combustion turbines in different user segments. Forty-eight percent are ''industrial,'' 39 percent are ''utility,'' and 13 percent are ''pipeline.'' Note that independent power producers (IPP) are included in the utility and industrial segments.

We examined the inventory database for information on HAP emission control technology. There were no turbines controlled with oxidation catalyst systems in the inventory database so we used information supplied by catalyst vendors. There are about 200 oxidation catalyst systems installed in the U.S. The only control technology currently proven to reduce HAP emissions from stationary diffusion flame combustion turbines is an oxidation catalyst emission control device, such as a CO oxidation catalyst. These control devices are used to reduce CO emissions and are currently installed on several stationary combustion turbines. However, less than 3 percent of existing stationary diffusion flame combustion turbines in the U.S., based on information in our inventory database and information from catalyst vendors, are equipped with oxidation catalyst emission control devices; thus, the average of the best performing 12 percent of existing diffusion flame combustion turbines is no HAP emissions reductions.

We also investigated the use of good operating practices for stationary diffusion flame combustion turbines to determine if the use of such practices might identify a MACT floor. There are no references in the inventory database to good operating practices for any stationary combustion turbines.

Most stationary diffusion flame combustion turbines will not operate unless preset conditions established by the manufacturer are met. Stationary diffusion flame combustion turbines, by manufacturer design, permit little operator involvement and there are no operating parameters, such as air/fuel ratio, for the operator to adjust. We concluded, therefore, that there are no specific good operating practices which could reduce HAP emissions or which could serve to identify a MACT floor.

We also investigated switching fuels in existing diffusion flame combustion turbines using fuels which result in higher HAP emissions with fuels that result in lower HAP emissions. When we compared the HAP emissions of the various fuels from combustion turbines using the April 2000 revision of Chapter 3.1 (Stationary Gas Turbines) of ''Compilation of Air Pollutant Emission Factors AP–42, Fifth Edition, Volume 1: Stationary Point and Area Sources,'' we could not find a fuel that was clearly less HAP emitting. The summation of emission factors for various HAP when using natural gas (usually considered the cleanest fuel), diesel fuel, landfill, or digester gas were comparable based on the emission factor information that is available. Therefore, we could not identify a MACT floor based on use of a particular fuel.

Another approach we investigated to identify a MACT floor was to review the requirements in existing State regulations and permits. No State regulations exist for HAP emission limits for stationary combustion turbines. Only one State permit limitation for a single HAP (benzene) was identified. Therefore, we were unable to use State regulations or permits to identify a MACT floor.

As a result, we concluded the MACT floor for existing stationary diffusion flame combustion turbines is no emissions reductions.

2. MACT for Existing Diffusion Flame Combustion Turbines

To determine MACT for existing stationary diffusion flame combustion turbines, we evaluated regulatory alternatives more stringent than the MACT floor. For existing diffusion flame sources, in terms of an emission control technology which could serve as the basis for MACT, we considered two beyond-the-floor options. The first option considered was the use of an oxidation catalyst emission control device. However, we concluded that the incremental cost per ton of HAP removed for this option is excessive.

The incremental cost per ton is the difference in annual costs between this regulatory option and the MACT floor divided by the difference in annual emissions. It is often used as a measure of the economic feasibility of applying emission control technology to a source.

We also considered the nonair health, environmental, and energy impacts of an oxidation catalyst system, as discussed previously in this preamble, and concluded that there would be only a small energy impact and no nonair health or environmental impacts. However, as stated above, we did not adopt this regulatory option due to cost considerations.

The second option considered was to switch fuels in existing turbines using fuels which result in higher HAP emissions with fuels that result in lower HAP emissions. As stated above, we could not find a fuel that was clearly less HAP emitting. Therefore, we could find no basis to further consider fuel switching as a beyond-the-floor HAP emissions reductions option. We were unable to identify any other beyond-the-floor regulatory option to consider. As discussed above, we are not aware of any specific good operating practices for diffusion flame turbines that could reduce HAP emissions. As a result, we concluded that MACT for existing diffusion flame combustion turbines is the MACT floor (*i.e.*, no emissions reductions).

3. MACT Floor for Existing Lean Premix Combustion Turbines

There are an estimated 800 lean premix combustion turbines in the U.S., of which 160 are estimated to be major sources. For existing lean premix combustion turbines, we must establish a MACT floor which represents the average emission limitation achieved by the best performing 12 percent of the existing sources for which we have emissions information. We have emissions information on five existing lean premix combustion turbines. Therefore, we plan to establish the MACT floor based on the performance of the best performing lean premix combustion turbine. (This best performing turbine represents the top 20 percent of the existing turbines for which we have emissions information and will also be used to establish the MACT floor for new lean premix combustion turbines.) The best performing existing lean premix combustion turbine achieved a level of formaldehyde concentration emission which averaged 6.1 parts per billion (ppb) formaldehyde at 15 percent oxygen (O2). This is the best performer out of five lean premix combustion turbine tests for which we have data. The three-run average formaldehyde emissions from these five turbines ranged from 6.1 to 41 ppb formaldehyde. The formaldehyde concentrations for the individual runs for the best performing turbine were 5.1 ppb, 5.7 ppb, and 7.7 ppb.

The test method that was used to measure the emissions from the best performing turbine was California Air Resources Board (CARB) Method 430. We do not believe that the MACT emission limit should be set lower than the limit of detection of the method. If it were, we could not determine whether a source with test results at the limit of detection was actually in compliance with the MACT emission limit. For the test runs on the best

performing turbine, we determined that the method had a minimum detection level (MDL) of between 2 and 3 ppb formaldehyde. We expect the MDL to vary somewhat in actual practice and, thus, do not assume that the MDL would be the same if the method were run by another person or at another laboratory. We have no information regarding the distribution of the CARB Method 430 MDL actually achieved by other testers. We want to ensure that the MACT floor reflects the variability in the limit of detection determined by different, competent testers throughout the U.S. using the same method, *i.e.*, CARB Method 430. We only have one test, the test conducted on the best performing turbine, to try to determine a limit of detection for this method, and this is not enough information to determine the variability in the limit of detection among different testers. If we had sufficient information on the limit of detection determined by different competent testers using Method 430, under similar conditions, we would analyze the results to determine the average limit of detection and its standard deviation. To establish a limit of detection that would be achievable by approximately 99 percent of all the testers, we would add three times the standard deviation to the average limit of detection. Since we do not have this information, we can attempt to estimate it. We believe that it is reasonable to assume that the standard deviation of the limit of detection is no greater than the single estimate of the limit that we have. If we multiply the single value of the limit of detection by three and add it to itself, the result is an estimate of the upper bound for the limit of detection that is four times the single measured value that we have. Based on the considerations above, the lowest MACT floor that we believe would take into account the variability in the MDL is 12 ppb. This level provides a safety factor of four to account for uncertainty in whether testers could routinely achieve a limit of detection of 2 to 3 ppb formaldehyde.

The combustion turbine MACT would be a national standard, and therefore, the MACT limit should reflect variations in the performance of the best performing turbine that could occur. There are two major sources of variability that together produce the total variability observed in the emissions sample results. These sources of variability are: the actual variability in the emissions, and the variability associated with procedures for sampling and analyzing the emissions samples. We believe there is substantial basis to conclude that sources of variability unrelated to turbine performance account for the differences in formaldehyde emissions concentrations between the five turbines. We discuss these sources of variability in more detail below.

When we began investigating the possible sources of the actual (non-sampling, non-analytical) variability in lean premix combustion turbine emissions, we realized that turbine performance was only one of several possible sources of that variability, and that turbine emissions also could vary widely due to environmental and operational factors that are unrelated to turbine performance and that are beyond an operator's control.

Specifically, formaldehyde concentrations are expected to vary temporally (*e.g.*, seasonally) and spatially (*e.g.*, geographically) due to environmental and operational factors such as temperature, humidity, atmospheric pressure, fuel quality, and the concentrations of formaldehyde present in the ambient air. It is our judgement that if the turbines were tested at various times during the year and at various locations throughout the U.S., the concentration of formaldehyde emitted by a given turbine could vary by a factor of seven or more, solely due to geographic and temporal differences in temperature, humidity, atmospheric pressure, fuel quality, and formaldehyde concentration in the ambient air. This factor is based not only on the short term variability of the data for the turbine with the lowest reported formaldehyde emissions, but also on the test data from all five turbines.

Variations in temperature, humidity, atmospheric pressure, and fuel quality are known to have resulted in fluctuations in criteria pollutant stack concentrations (*e.g.*, NO_X, VOC, and CO), and we anticipate that they also would cause variations in formaldehyde concentrations in the combustion turbine stack. An owner or operator cannot control the variability of environmental parameters such as ambient temperature, humidity, or atmospheric pressure. With regard to fuel quality, an owner or operator cannot control the quality of the natural gas delivered through a pipeline, or the nature and concentration of natural gas additives or contaminants. The five turbines for which we have formaldehyde emissions data operate at four locations in the Western U.S. that are at considerably different altitudes. Moreover, each of the five turbines was sampled over only a 3-hour period, and the five sampling events occurred in four different months of the year: April, May, June (two turbines), and December. Therefore, we believe that the variability in formaldehyde concentration of the turbine emissions will be greater than the variability reflected in the 3-hour sampling period.

Furthermore, we believe that the variability observed in the available turbine emissions data may reflect the variability of formaldehyde concentrations in ambient air—much of which is due to natural causes. The average concentration of formaldehyde in ambient air varies between 2 and 25 ppb within the U.S., with a U.S. annual average urban concentration of 5.17 ug/m^3 (4.2 ppb).[1] The difference between hourly maximum and minimum formaldehyde concentrations across the U.S. would be even greater than the average annual 23 ppb range in U.S. formaldehyde concentrations. We do not have information that specifically shows that the ambient concentration of formaldehyde affects the stack outlet concentration of formaldehyde. We expect that some formaldehyde, especially the portion that goes through the combustors, would be destroyed. However, about two-thirds of the inlet combustion turbine air bypasses the combustors. We are not sure that all of the ambient formaldehyde that enters with the combustion air is destroyed and, therefore, ambient formaldehyde may affect the formaldehyde concentration in the outlet stack of the combustion turbine. For example, if half of the ambient formaldehyde passes through to the outlet stack, the annual average contribution of ambient formaldehyde to the stack formaldehyde concentration may be in the 10 ppb range in some parts of the U.S. This means that hourly formaldehyde emissions from the outlet stack of a given turbine could differ by over 10 ppb based solely on the region of the country where the turbine is located.

Sampling variability is a result of the fact that it is impossible to collect two samples in exactly the same way. Sampling variability occurs both when an individual intends to collect replicate samples of the same emissions stream, and when sampling is conducted by different personnel using different procedures and different equipment under different physical conditions. If the same sampling personnel collect a suite of samples using the same equipment and procedures, the variability of the sampling results will be reduced. However, a given individual or a given piece of equipment may impart bias, a

[1] 1998 National Air Quality and Emission Trends Report, Table 5–2 and Figure 5–1a.

systematic error, into the sampling procedure. In the context of an aggregate of data collected by different personnel using different procedures and different equipment under different physical conditions, this bias could have the effect of increasing the variability of the data. The emissions sample results for the five turbines evaluated for the proposed rule were provided by state agencies, and samples were not collected by the same sampling personnel, or even personnel acting in coordination with one another and following the same sampling plan and methodologies, increasing the non-systematic sampling-induced variability across the five sets of turbine samples and also increasing the chance that any bias imposed on each set of turbine samples might also increase the variability of the results. Moreover, two different sampling and analysis procedures were used to collect the samples, EPA Method 0011 and CARB Method 430, likely introducing additional variability into the sampling procedure. For example, EPA generally recognizes that the quality assurance/quality control (QA/QC) protocols for CARB Method 430 are more rigorous than those for EPA Method 0011. Similar to sampling variability, variability occurs when samples are analyzed at the same time in the same laboratory (*e.g.*, variability is seen in the results of a laboratory's repeated analysis of the same sample) and occurs when samples are analyzed by different laboratories. For example, analytic variability may result from the use of different analytical procedures, different equipment, different laboratory environments, different reagents, different sampling handling procedures, and different analysts. The emissions samples evaluated for the proposed rule were analyzed in different laboratories, by different analysts, and using two different analytical procedures. The EPA suspects that sampling and analytic variability may be a significant source of the variability of formaldehyde emissions results reported for the five tested turbines, and that if stricter QA/QC protocols were followed, the results for the five turbines might have been closer in magnitude.

One measure of overall variability (*i.e.*, variability from all sources—environmental, operational, test method, etc.) is the variability of formaldehyde concentration that the best performing turbine demonstrated during the three test runs. The formaldehyde concentration varied between 5.1 and 7.7 ppb formaldehyde, a factor of 1.5 during only a 3-hour period. Another measure of formaldehyde concentration variability is the variability in formaldehyde concentration from the five lean premix combustion turbines tested. As stated previously, the average formaldehyde concentration varied between 6.1 and 41 ppb (a factor of seven). We reviewed the emission test reports and could not find any specific reason to account for the variability. These tests were properly conducted, and the lean premix combustion turbines were operating properly. Therefore, we believe that at least some portion, and possibly all, of that variability is due to factors other than turbine performance. As a result, we believe that some variability in formaldehyde concentration of the best performing turbine will occur beyond the variability reflected by the three test runs. It is our judgement that if the best performing turbine were tested at various times during the year and at various locations throughout the U.S., the overall formaldehyde concentration of the best performing turbine could vary by a factor of seven or more. This factor is based on the short term variability of the test data from the best performing turbine and also on the test data from the five turbine tests mentioned previously. Therefore, we believe that 43 ppbvd formaldehyde is a reasonable approximation of the performance of the best performing turbine, taking into account all of the types of variability discussed above. As a result, we are proposing an emission limit of 43 ppbvd formaldehyde as the MACT floor for existing lean premix combustion turbines.

The lean premix combustor turbine technology varies to some extent regarding its uncontrolled emissions of NO_X and CO and possibly HAP. The data that we have obtained for the five source tests were based primarily on lean premix combustor turbines that can achieve lower than 15 ppm NO_X and less than 5 ppm CO (at full load) at 15 percent O_2 without add-on controls. Lean premix combustor turbines which have these characteristics are the types of lean premix combustor turbines that we believe will most likely achieve the 43 ppb formaldehyde emission limit. Other types of lean premix combustor turbines which achieve 45 ppm NO_X and as high as 200 ppm CO at 15 percent O_2 may not achieve the 43 ppb formaldehyde emission limit. Typically, the lean premix combustor turbines in the latter category are smaller aeroderivative turbines.

Therefore, we realize that not all lean premix combustor turbines will be able to achieve the 43 ppb formaldehyde emission limitation and some will have to install add-on controls. Most new turbines projected to be installed at power plants are expected to be able to achieve the 43 ppb emission limitation.

We request public comment on the proposed MACT floor level for existing lean premix combustion turbines. We are particularly interested in obtaining information on the annual/seasonal and geographic variability in formaldehyde emissions that occur for lean premix combustion turbines. Formaldehyde emission test reports that were conducted over time for the same lean premix combustion turbine would be especially helpful. We are also soliciting information regarding the contribution of ambient formaldehyde to the variability of outlet stack concentrations of formaldehyde.

4. MACT for Existing Lean Premix Combustion Turbines

To determine MACT for existing stationary lean premix combustion turbines, we evaluated regulatory alternatives more stringent than the MACT floor. For existing lean premix turbines, in terms of an emission control technology which could serve as the basis for MACT, we considered the use of an oxidation catalyst emission control device. According to catalyst vendors, oxidation catalyst emission control is being used on some existing lean premix combustion turbines, however, we lack specific data regarding the performance of turbines with such controls. The concentration of formaldehyde in the exhaust stream from lean premix combustion turbines is already significantly lower than the concentration of formaldehyde in the exhaust stream from diffusion flame combustion turbines, and any reduction achieved by oxidation catalyst control would be difficult to measure. Thus, we concluded that the incremental cost per ton of HAP removed for that option is excessive. We also considered the use of good operating practices to reduce HAP emissions, but determined that we could not identify specific good operating practices that would reduce HAP emissions. Similarly, we also considered requiring the use of a particular fuel to reduce HAP emissions but concluded that fuel switching would not result in further HAP emissions reductions. As a result, we are proposing to set MACT for existing lean premix combustion turbines at the MACT floor (*i.e.*, 43 ppbvd formaldehyde).

E. How Did We Determine the Basis and Level of the Proposed Emission Limitations and Operating Limitations for New Sources?

For new sources, the MACT floor is defined as the emission control that is achieved in practice by the best controlled similar source.

1. MACT Floor for New Diffusion Flame Combustion Turbines

To identify the MACT floor for new stationary combustion turbines located at major sources, we consulted the inventory database and oxidation catalyst vendor information. As mentioned earlier, oxidation catalyst emission control devices are currently installed on about 3 percent of stationary diffusion flame combustion turbines. This 3 percent represents about 200 stationary combustion turbines. We also considered whether the best controlled diffusion flame combustion turbine might be using good operating practices or a particular fuel that would reduce HAP emissions further and concluded, as we had previously in this preamble for existing sources, that we could not identify specific good operating practices that would reduce HAP emissions, and that fuel switching would not result in further HAP emissions reductions. We concluded, therefore, that the level of HAP emission control achieved by the use of oxidation catalyst emission control devices is the MACT floor for new stationary combustion turbines.

After establishing this basis for the MACT floor, we determined the level of performance based on the data available in the emissions database. The emissions database, which is a compilation of available HAP emission test reports, was created for the purpose of supporting rulemaking for the proposed rule. The majority of HAP emission test reports collected were conducted in California as part of the AB 2588 (Air Toxics ''Hot Spots'' Information Assessment Act of 1987) program. Complete copies of HAP emission test reports for stationary combustion turbines were gathered from all air districts in California and from other sources, such as the EPA Source Test Information Retrieval System (STIRS). Other States, including Washington, Texas, Pennsylvania, and New Jersey, and trade associations such as the Western States Petroleum Association (WSPA) and the Gas Research Institute (GRI) were also contacted for available HAP emission test reports.

We then examined the emission control efficiency achieved by an oxidation catalyst emission control device on a stationary combustion turbine. We concluded that CO emission reductions are a good surrogate for HAP emissions reductions for oxidation catalyst emission control devices.

This conclusion that CO emission reductions are a good surrogate for HAP emissions reductions achieved through the use of oxidation catalyst emission control devices is also supported by data we have collected from the use of oxidation catalyst emission control devices on stationary reciprocating internal combustion engines (RICE). These data from stationary RICE also show a direct relationship between CO emission reductions and HAP emissions reductions. When oxidation catalyst emission control devices are used to reduce CO emissions, they will reduce HAP emissions.

The emissions database contains several emission test reports that measured HAP and CO emissions from stationary combustion turbines, but no emission test reports that measure the emission reduction efficiency of an oxidation catalyst emission control device (measuring CO and HAP emissions both before and after the control device). However, we obtained information from a catalyst vendor for two tests for one turbine. The results of those tests show that a CO reduction of 95 to 98 percent was achieved using an oxidation catalyst control system. We reviewed the test report for the data to assure that the turbine was operated correctly and that there was no turbine or control device malfunction; we found no discrepancy. In addition to emissions testing data, we reviewed design data from oxidation catalyst vendors for the systems installed in the U.S. The typical emission reduction for turbines that have been installed is 90 percent CO emission reduction, with a few systems that are designed to be 95 percent or greater.

We reviewed other factors such as operator training in addition to the control technology itself that could potentially result in better emission reduction, but we found no effect of those factors on the control efficiency. Based on the conclusions and data, we believe that 95 percent represents the level of control that can be achieved by the best controlled similar source. As a result, we concluded that the level of performance associated with the MACT floor (*i.e.,* use of an oxidation catalyst emission control device) is an emission reduction efficiency of 95 percent or more for CO. The MACT floor for new stationary diffusion flame combustion turbines is, therefore, a CO emission reduction efficiency of 95 percent or more, using an oxidation catalyst control system.

2. MACT for New Diffusion Flame Combustion Turbines

We were unable to identify any beyond-the-floor regulatory alternatives for new stationary combustion turbines. We know of no emission control technology currently available which can reduce HAP emissions to levels lower than that achieved through the use of oxidation catalyst emission control devices. Similarly, we know of no work practice that could further reduce HAP emissions. In addition, fuel switching will not result in further reductions of HAP emissions. We concluded, therefore, that MACT for new diffusion flame stationary combustion turbines is equivalent to the MACT floor. It should be noted that the majority of new combustion turbines are expected to be lean premix combustion turbines based on the significantly reduced emissions of NO_X, CO, and formaldehyde. We estimate that less than 5 percent of new combustion turbines will be diffusion flame. Diesel-fired combustion turbines cannot be operated in the lean premix mode, and these turbines would have to install an oxidation catalyst system.

3. MACT Floor for New Lean Premix Combustion Turbines

To determine the MACT floor for new stationary lean premix combustion turbines, we based our analysis on the same emissions data for formaldehyde that we used for the existing MACT floor. The MACT floor for existing lean premix combustion turbines is based on the performance of the best performing lean premix combustion turbine; this same level of performance can, therefore, be used to determine the MACT floor for new lean premix combustion turbines. As discussed previously in the existing source MACT, we believe that 43 ppbvd formaldehyde represents the best performing turbine. The MACT floor for new lean premix combustion turbines is, therefore, an emission limit of 43 ppbvd formaldehyde.

4. MACT for New Lean Premix Combustion Turbines

To determine MACT for new stationary lean premix combustion turbines, we evaluated regulatory alternatives more stringent than the MACT floor. As with existing lean premix combustion turbines, we considered the use of an oxidation catalyst control system. However, although catalyst vendors have indicated that some existing lean

premix combustion turbines are using oxidation catalyst emission control, we lack specific data regarding the performance of turbines with such controls. The HAP concentration in the lean premix combustion turbine exhaust is very low and, therefore, would be difficult to measure if it were further reduced through the installation of an oxidation catalyst. Due to the low HAP levels, the cost per ton of HAP removed would be very high. We concluded, therefore, that MACT for new stationary lean premix combustion turbines is equivalent to the MACT floor.

5. MACT for Other Subcategories

Although the proposed rule would apply to all stationary combustion turbines located at major sources of HAP emissions, emergency stationary combustion turbines, limited use stationary combustion turbines, stationary combustion turbines which fire landfill gas or digester gas as their primary fuel, and stationary combustion turbines of less than 1 MW rated peak power output are not required to meet the emission limitations or operating limitations.

For each of the subcategories of stationary combustion turbines, as mentioned earlier, we have concerns about the applicability of emission control technology. For example, emergency stationary combustion turbines operate infrequently. In addition, when called upon to operate they must respond immediately without failure and without lengthy startup periods. This infrequent operation limits the applicability of HAP emission control technology.

Limited use stationary combustion turbines also operate infrequently. As with emergency stationary combustion turbines, it is this infrequent operation that limits the applicability of HAP emission control technology.

Landfill and digester gases contain a family of silicon based gases called siloxanes. Combustion of siloxanes forms compounds that can foul post-combustion catalysts, rendering catalysts inoperable within a very short time period. Pretreatment of exhaust gases to remove siloxanes was investigated. However, no pretreatment systems are in use and their long term effectiveness is unknown. We also considered fuel switching for this subcategory of turbines. Switching to a different fuel such as natural gas or diesel would potentially allow the turbine to apply an oxidation catalyst emission control device. However, fuel switching would defeat the purpose of using this type of fuel which would then either be allowed to escape uncontrolled or would be burned in a flare with no energy recovery. We believe that switching landfill or digester gas to another fuel is inappropriate and is an environmentally inferior option.

For stationary combustion turbines of less than 1 MW rated peak power output, we have concerns about the effectiveness of scaling down the oxidation catalyst emission control technology. Just as there are often unforeseen problems associated with scaling up a technology, there can be problems associated with scaling down a technology.

As a result, we identified subcategories for each of these types of stationary combustion turbines and investigated MACT floors and MACT for each subcategory. As expected, since we identified these types of stationary combustion turbines as separate subcategories based on concerns about the applicability of emission control technology, we found no stationary combustion turbines in these subcategories using any emission control technology to reduce HAP emissions. As discussed above, we are not aware of any work practices that might constitute a MACT floor, nor did we find that the use of a particular fuel results in HAP emissions reductions. The MACT floor, therefore, for each of these subcategories is no emissions reduction.

Despite our concerns with the applicability of emission control technology, we examined the cost per ton of HAP removed for these subcategories. Whether our concerns are warranted or not, we consider the incremental cost per ton of HAP removed excessive—primarily because of the very small reduction in HAP emissions that would result.

We also considered the nonair health, environmental, and energy impacts of an oxidation catalyst system, as discussed previously in this preamble, and concluded that there would be only a small energy impact and no nonair health or environmental impacts. However, as stated above, we did not adopt this regulatory option due to cost considerations and concerns about the applicability of this technology to these subcategories. We were not able to identify any other means of achieving HAP emissions reductions for these subcategories.

As a result, for all of these reasons, we conclude that MACT for these subcategories is the MACT floor (*i.e.*, no emissions reductions).

F. How Did We Select the Format of the Standard for New Diffusion Flame Combustion Turbines?

We are proposing two options for complying with the standard for new diffusion flame combustion turbines. You may reduce CO by 95 percent if you use an oxidation catalyst emission control device, or reduce the concentration of formaldehyde in the exhaust from the turbine to 43 ppb by volume or less, dry basis, at 15 percent oxygen.

We considered proposing an emission limitation for HAP, but are proposing a CO emission reduction limitation as a surrogate for a HAP emission limitation. We have decided to propose the use of the CO emission reduction limitation as a surrogate for the HAP emission limitation, because CO monitoring is currently being used by combustion turbine owners and operators, it is significantly easier and less expensive to measure and monitor CO than to measure and monitor each HAP, and because we believe that CO reduction is a good measure of performance of the oxidation catalyst emission control device. Monitoring equipment for CO is readily available, which is not the case for HAP monitoring equipment.

We are also proposing a percent reduction in CO emissions as the emission limitation, rather than a single value for CO emissions. The data upon which MACT are based show that while the level of CO emissions entering an oxidation catalyst emission control device may vary, the oxidation catalyst emission control device is able to maintain a CO emission reduction efficiency of 95 percent or more.

We are also proposing an alternative emission limitation for formaldehyde emissions. You may choose to comply with the emission limitation for CO emission reduction (if you use an oxidation catalyst emission control device) or you may choose to comply with the emission limitation for formaldehyde emission concentration (if you use some means other than an oxidation catalyst control device to reduce HAP emissions). We would like to promote the development and eventual use of alternative emission control technologies (including pollution prevention technologies) to reduce HAP emissions, and we believe an alternative emission limitation written in terms of formaldehyde emissions will serve to do so. We are soliciting information on HAP and CO emissions data from alternative emission control technologies during the comment period. We are particularly interested in obtaining test reports

where HAP and CO emissions reductions were measured with methods that we are recommending to be used to measure HAP in the proposed rule.

For the emission limitation, we propose to use formaldehyde as a surrogate for all HAP. Formaldehyde is the HAP emitted in the highest concentrations from stationary combustion turbines. In addition, the emission data show that HAP emission levels and formaldehyde emission levels are related, in the sense that when emissions of one are low, emissions of the other are low and vice versa. This leads us to conclude that emission control technologies which lead to reductions in formaldehyde emissions will lead to reductions in HAP emissions.

The emission limitation for formaldehyde is in units of parts per billion, and all measurements must be corrected to 15 percent oxygen, dry basis, to provide a common basis. A volume concentration was chosen for the emission limitation because it can be measured directly.

We based the alternative emission limitation on the ability of lean premix technology to reduce emissions to 43 ppbvd (at 15 percent oxygen). The reduction in formaldehyde emissions is approximately equivalent to that achieved when CO emissions are reduced by 95 percent through the use of an oxidation catalyst emission control device.

As discussed later, we consider the cost of formaldehyde CEMS excessive for the purpose of ensuring continuous compliance with this emission limitation for formaldehyde emissions. As a result, we selected stack emission testing to demonstrate compliance with the emission limitation.

G. How Did We Select the Initial Compliance Requirements?

The emissions tests which form the basis of the proposed rule were conducted using EPA or CARB test methods. The proposed rule requires the use of these EPA or CARB test methods to determine compliance. This ensures that the same procedures that were used to obtain the emission data upon which the emission limitations are based are used for compliance testing. By using the same test methods, we eliminate the possibility of measurement bias and interference influencing determinations of compliance.

For sources complying with the emission limitation to reduce CO emissions, an initial performance evaluation is required. The performance evaluation will validate performance of the CEMS. The proposed rule also requires an annual relative accuracy test audit (RATA) to ensure that performance of the CEMS does not deteriorate over time. The first 4-hour period following this performance evaluation of the CO CEMS will be used to determine initial compliance with the CO emission reduction limitation.

New and reconstructed sources and existing lean premix combustor turbines complying with the emission limitation to reduce formaldehyde emissions are required to conduct an initial performance test. The purpose of the initial test is to demonstrate initial compliance with the formaldehyde emission limitation.

H. How Did We Select the Continuous Compliance Requirements?

If you must comply with the emission limitations, continuous compliance with these requirements is required at all times except during startup, shutdown, and malfunction of your stationary combustion turbine. You are not required to develop a startup, shutdown or malfunction plan since we do not believe meaningful procedures could be developed.

We consider the use of CEMS the best means of ensuring continuous compliance with emission limitations, and alternatives to CEMS are considered only if we consider the use of a CEMS technically or economically infeasible. For sources complying with the emission limitation for CO emission reduction, we believe it is feasible to require a CEMS because the costs for a CO CEMS are reasonable. Thus, the proposed rule requires the use of a CO CEMS to continuously monitor the reduction in CO emissions.

For sources complying with the emission limitation for formaldehyde emissions, we also considered requiring a CEMS; however, we concluded that the costs of a formaldehyde CEMS were excessive. We considered requiring those sources to continuously monitor operating load to demonstrate continuous compliance because the data establishing the formaldehyde outlet concentration level are based on tests that were done at high loads. However, we believe that the performance of a stationary lean premix combustion turbine at high load is also indicative of its operation at lower loads. In fact, the operator can make no parameter adjustments that would lead to lower emissions.

We request comments on the continued monitoring of stationary lean premix combustion turbines that have demonstrated initial compliance. The stationary lean premix combustion turbines are low NO_X emitting and are permitted to continuously attain the permitted NO_X levels. The same technology that results in the maintenance of low NO_X levels is also related to the achievement of low HAP emissions. Therefore, we would like to solicit comments on the feasibility of requiring no additional testing or monitoring after the lean premix stationary combustion turbine has demonstrated initial compliance and is relying on the NO_X permit levels, or low NO_X levels characteristic of lean premix combustor turbines (*e.g.* NO_X levels guaranteed by the manufacturer) if there are no permit levels, to assure continuing good performance. We are proposing this in an attempt to streamline the continuous testing, monitoring, and reporting requirements.

Finally, since we are unsure what new HAP emission control technologies might emerge, we do not know whether it will be necessary to establish additional operating limitations to ensure continuous compliance with the formaldehyde emission limitation for sources that are not lean premix or diffusion flame. Thus, as outlined earlier, the proposed rule requires you to petition the Administrator for approval of additional operating limitations or for approval of no additional operating limitations.

I. How Did We Select the Monitoring and Testing Methods to Measure These Low Concentrations of CO and Formaldehyde?

We believe CEMS are available which can measure CO emissions at the low concentrations found in the exhaust from a stationary combustion turbine following an oxidation catalyst emission control device. Our performance specifications for CO CEMS (PS4 and PS4A), however, have not been updated recently and do not reflect the performance capabilities of such systems at these low CO concentration levels.

As a result, we solicit comments on the performance capabilities of state-of-the-art CO CEMS and their ability to accurately measure the low concentrations of CO experienced in the exhaust of a stationary combustion turbine following an oxidation catalyst emission control device. We also solicit comments with specific recommendations on the changes we should make to our performance specifications for CO CEMS (PS4 and PS4A) to ensure the installation and use of CEMS which can be used to determine compliance with the proposed emission limitation for CO emission reduction. In addition, we

solicit comments on the availability of instruments capable of meeting the changes they recommend to our performance specifications for CO CEMS.

Today's proposal specifies the use of Method 10 as the reference method to certify the performance of the CO CEMS. We also believe Method 10 is capable of measuring CO concentrations as low as those experienced in the exhaust of a stationary combustion turbine following an oxidation catalyst emission control device. However, the performance criteria in addenda A of Method 10 have not been revised recently and are not suitable for certifying the performance of a CO CEMS at these low CO concentrations. Specifically, we believe the range and minimum detectable sensitivity should be changed to reflect target concentrations as low as 0.1 parts per million (ppm) CO in some cases. We also expect that dual range instruments will be necessary to measure CO concentrations at the inlet and at the outlet of an oxidation catalyst emission control device.

As a result, we solicit comments with specific recommendations on the changes we should make to Method 10 and the performance criteria in addenda A. We also solicit comments on the availability of instruments capable of meeting the changes they recommend to Method 10 and the performance criteria in addenda A, while also meeting the remaining addenda A performance criteria.

With regard to formaldehyde, we believe systems meeting the requirements of Method 320, a self-validating FTIR method, can be used to attain detection limits for formaldehyde concentrations below 43 ppbvd. We expect path lengths in the range of 100 to 125 meters and state-of-the-art digital signal processing (to reduce signal to noise ratio) would be needed. Method 320 also includes formaldehyde spike recovery criteria, which require spike recoveries of 70 to 130 percent.

While we believe FTIR systems can meet Method 320 and measure formaldehyde concentrations at these low levels, we have limited experience with their use. As a result, we solicit comments on the ability and use of FTIR systems to meet the validation and quality assurance requirements of Method 320 for the purpose of determining compliance with the emission limitation for formaldehyde emissions.

As an alternative to Method 320, we are proposing Method 323 for natural gas-fired sources. Method 323 uses the acetyl acetone colorimetric method to measure formaldehyde emissions in the exhaust of natural gas-fired, stationary combustion sources. We believe the proposed method can measure low concentrations of formaldehyde at a cost which is less than or equal to the cost of testing using Method 320; therefore, we solicit comments on the use of Method 323 by natural gas-fired sources to demonstrate compliance with the formaldehyde emission limitation.

We also believe CARB Method 430 and EPA SW–846 Method 0011 are capable of measuring formaldehyde concentrations at these low levels. Accordingly, we solicit comments on the use of CARB 430 and EPA SW–846 Method 0011 to determine compliance with the emission limitations for formaldehyde.

Based on the comments we receive on CO CEMS, we anticipate revising Method 10 and our performance specifications (PS4 and PS4A) for CO CEMS to ensure the installation and use of CEMS suitable for determining compliance with the emission limitation for CO emission reduction. If we should promulgate today's proposed rule for stationary combustion turbines before completing these revisions, however, we may require all new and reconstructed stationary combustion turbines subject to the final rule to demonstrate compliance with the formaldehyde emission limitation, or a formaldehyde percent reduction limitation similar to the CO percent reduction emission limitation, until we have adopted final revisions to Method 10 and our performance specifications for CO CEMS.

On the other hand, if the comments we receive lead us to conclude that CO CEMS are not capable of being used to determine compliance with the emission limitation for CO emission reduction, there are several alternatives we may consider. One alternative would be to delete the proposed percent reduction emission limitation for CO and require compliance with a comparable formaldehyde percent reduction limitation. This alternative would require periodic stack emission testing before and after the control device and would also require owners and operators to petition the Administrator for additional operating limitations, as proposed today for those choosing to comply with the emission limitation for formaldehyde. Another alternative would be to delete the proposed emission limitation for CO emission reduction and require compliance with the proposed emission limitation for formaldehyde. This alternative could require more frequent emission testing and could also require owners and operators to petition the Administrator for additional operating limitations.

Another alternative would be to require the use of Method 320 (*i.e.*, FTIR systems) to determine compliance with the emission limitation for CO emission reduction. This alternative could also require more frequent emission testing and require owners and operators to petition the Administrator for additional operating limitations, as proposed today for those choosing to comply with the emission limitation for formaldehyde.

Based on the comments we receive on FTIR systems and Method 320, we may develop additional or revised criteria for the use of FTIR systems and/or Method 320 to determine compliance with the emission limitation for formaldehyde.

If we should conclude that neither CO CEMS or FTIR systems are capable of being used to determine compliance with the emission limitations for CO or formaldehyde emissions, then we may delete the emission limitations for CO and formaldehyde emissions and adopt an emission limitation consisting of an equipment and work practice requirement. This alternative would require the use of oxidation catalyst emission control devices which meet specific and narrow design and operating criteria.

We believe the emission limitations we are proposing for CO emission reduction and formaldehyde emission concentration are superior to these alternatives for a number of reasons. We believe that the CO emission limitation is better because it is easier and cheaper to continuously monitor CO, and it has been shown to be a good surrogate for HAP. Also, we prefer to have an emission limitation rather than an equipment or work practice standard. An emission limitation is superior because it ensures that emissions are below a certain level, as demonstrated by a CEMS or performance testing. However, we solicit comments on these alternatives, should we conclude that the proposed emission limitations for CO emission reduction and formaldehyde emission concentration are inappropriate because of difficulties in monitoring or measuring CO emission reduction or formaldehyde emission concentration to determine compliance. We also solicit suggestions and recommendations for other alternatives, should we conclude the proposed emission limitations are inappropriate because of monitoring or measurement difficulties.

J. How Did We Select the Notification, Recordkeeping and Reporting Requirements?

The proposed notification, recordkeeping, and reporting requirements are based on the NESHAP General Provisions of 40 CFR part 63.

IV. Summary of Environmental, Energy and Economic Impacts

We estimate that 20 percent of the stationary combustion turbines affected by the proposed rule will be located at major sources. As a result, the environmental, energy, and economic impacts presented in this preamble reflect these estimates.

A. What Are the Air Quality Impacts?

The proposed rule will reduce total national HAP emissions by an estimated 81 tons/year in the 5th year after the standards are promulgated. The emissions reductions achieved by the proposed rule would be due to the sources that install an oxidation catalyst control system. We estimate that about 10 existing lean premix combustion turbines will install oxidation catalyst control to comply with the standard. In addition, we estimate that about 5 percent of new stationary combustion turbines will install oxidation catalyst control to comply with the standards. The other 95 percent of new stationary combustion turbines will be lean premix, a pollution prevention technology which in most cases does not require the use of oxidation catalyst control. The lean premix turbines are currently being installed to meet NO_X emission standards. The reduction of HAP emissions for these stationary combustion turbines is difficult to assess because it is a pollution prevention technology and is being installed to meet NO_X limits, not as a result of MACT for stationary combustion turbines. Therefore, as stated previously, the HAP emissions reductions obtained by the proposed rule result only from the sources that install an oxidation catalyst control system.

To estimate air impacts, national HAP emissions in the absence of the proposed rule (*i.e.*, HAP emission baseline) were calculated using an emission factor from the emissions database. We assumed new stationary combustion turbines are operated 8,760 hours annually. We then assumed a HAP reduction of 95 percent, achieved by using oxidation catalyst emission control devices to comply with the emission limitation to reduce CO emissions, and applied this reduction to the baseline HAP emissions to estimate total national HAP emission reduction. The total national HAP emission reduction is the sum of formaldehyde, acetaldehyde, benzene, and toluene emission reductions. In addition to HAP emission reductions, the proposed rule will reduce criteria air pollutant emissions, primarily CO emissions.

B. What Are the Cost Impacts?

The national total annualized cost of the proposed rule in the 5th year following promulgation is estimated to be about $21.5 million. Approximately $267,500 of that amount is the estimated annualized cost for monitoring, recordkeeping, and reporting. To calculate the annualized control costs, we obtained estimates of the capital costs of oxidation catalyst emission control devices from vendors. We then calculated the national total annualized costs of control for the new stationary combustion turbines installing oxidation catalyst emission control in the next 5 years. Our projection of new stationary combustion turbine capacity that will come online over the next 5 years is based on review of permit data gathered by EPA from 1998 to the present time, confidential projection data from turbine manufacturers, and published sales data. We believe this projection is a reasonable estimate based on the available information.

C. What Are the Economic Impacts?

The EPA prepared an economic impact analysis to evaluate the impacts the proposed rule would have on the combustion turbines producers, consumers of goods and services produces by combustion turbines, and society. The analysis shows minimal changes in prices and output for products made by the 24 industries affected by the proposed rule. The price increase for affected output is less than 0.01 percent and the reduction in output is less than 0.01 percent for each affected industry. Estimates of impacts on fuel markets show price increases of less than 0.012 percent for petroleum products and natural gas, and price increases of 0.13 and 0.17 percent for base-load and peak-load electricity, respectively. The price of coal is expected to decline by about 0.06 percent, and this is due to a small reduction in demand for this fuel type. Reductions in output are expected to be less than 0.16 percent for each energy type, including base-load and peak-load electricity. The social costs of the proposed rule are estimated at $13.3 million (1998 dollars). Social costs include the compliance costs, but also include those costs that reflect changes in the national economy due to changes in consumer and producer behavior resulting from the compliance costs associated with a regulation. In this case, changes in energy use among both consumers and producers to reduce the impact of the regulatory requirements of the proposed rule on them lead to the estimated social costs being somewhat less than the total annualized compliance cost estimate of $21.5 million (1998$). The primary reason for the much lower social cost estimate is the increase in electricity supply generated by existing unaffected sources, which mostly offsets the impact of increased electricity prices to consumers.

For more information on these impacts, please refer to the economic impact analysis in the public docket.

D. What Are the Nonair Health, Environmental and Energy Impacts?

The only energy requirement is a small increase in fuel consumption resulting from back pressure caused by operating an oxidation catalyst emission control device. This energy impact is small in comparison to the costs of other impacts. There are no known nonair environmental or health impacts as a result of the implementation of the rule as proposed.

V. Solicitation of Comments and Public Participation

A. General

We are requesting comments on the proposed rule. We request comments on all aspects of the proposed rule, such as the proposed emission limitations and operating limitations, recordkeeping and monitoring requirements, as well as aspects you may feel have not been addressed.

Specifically, we request comments on the performance capabilities of state-of-the-art CO CEMS and their ability to measure the low concentrations of CO in the exhaust of a stationary combustion turbine following an oxidation catalyst emission control device. We also request comments with recommendations on changes commenters believe we should make to our performance specifications for CO CEMS (PS4 and PS4A) of 40 CFR part 60, appendix B, and to Method 10 of 40 CFR part 60, appendix A, and the performance criteria in addenda A to Method 10. In addition, we request comments from these commenters on the availability of instruments capable of meeting the changes they recommend to our performance specifications for CO CEMS (PS4 and PS4A) of 40 CFR part 60, Method 10 of 40 CFR part 60,

appendix A, and addenda A to method 10.

As also mentioned earlier, we request comments on the ability and use of FTIR systems to meet the validation and quality assurance requirements of Method 320 of 40 CFR part 63, appendix A, for the purpose of determining compliance with the emission limitation for formaldehyde emissions. In addition, we request comments on the use of Method 323 of 40 CFR part 63, appendix A, SW–846 Method 0011, and CARB 430 to determine compliance with the emission limitations for formaldehyde.

We request any HAP emissions test data available from stationary combustion turbines; however, if you submit HAP emissions test data, please submit the full and complete emission test report with this data. Without a complete emission test report, which includes sections describing the stationary combustion turbine and its operation during the test as well as identifying the stationary combustion turbine for purposes of verification, discussion of the test methods employed and the Quality Assurance/Quality Control (QA/QC) procedures followed, the raw data sheets, all the calculations, etc., which such reports contain, submittal of HAP emission data by itself is of little use.

B. Can We Achieve the Goals of the Proposed Rule in a Less Costly Manner?

We have made every effort in developing the proposal to minimize the cost to the regulated community and allow maximum flexibility in compliance options consistent with our statutory obligations. We recognize, however, that the proposal may still require some facilities to take costly steps to further control emissions even though those emissions may not result in exposures which could pose an excess individual lifetime cancer risk greater than one in 1 million or exceed thresholds determined to provide an ample margin of safety for protecting public health and the environment from the effects of HAP. We also recognize that in some cases the proposal may require facilities to undertake emissions testing and monitoring even when the rule will not require them to reduce emissions at all. However, this is necessary to assure the proper initial performance and continuing performance of the emission reduction-pollution prevention technology. We are, therefore, specifically soliciting comment on whether there are further ways to structure the proposed rule to focus on the facilities which pose significant risks and avoid the imposition of high costs on facilities that pose little risk to public health and the environment.

Representatives of the plywood and composite wood products industry provided EPA with descriptions of three mechanisms that they believed could be used to implement more cost-effective reductions in risk. The docket for today's proposed rule contains white papers prepared by the plywood and composite wood products industry that outline their proposed approaches (see docket OAR–2002–0060). These approaches could be effective in focusing regulatory controls on facilities that pose significant risks and avoiding the imposition of high costs on facilities that pose little risk to public health or the environment, and we are seeking public comment on the utility of each of these approaches with respect to the proposed rule.

One of the approaches, an applicability cutoff for threshold pollutants, would be implemented under the authority of CAA section 112(d)(4); the second approach, subcategorization and delisting, would be implemented under the authority of CAA sections 112(c)(1) and 112(c)(9); and the third approach would involve the use of a concentration-based applicability threshold. We are seeking comment on whether these approaches are legally justified and, if so, we ask for information that could be used to support such approaches. In addition, on August 21, 2002, the Agency received a petition from the Gas Turbine Association (GTA) requesting that natural gas fueled combustion turbines be delisted and a study that they believed would justify delisting. Section 112(c)(9) of the CAA provides EPA with the authority to delist categories or subcategories either in response to the petition of any person or upon the Administrator's own motion. The GTA states that the study supports a determination that HAP emissions from gas turbines would not result in a lifetime cancer risk greater than one in a million to the individual in the population most exposed to the emissions or non-carcinogenic health risk exceeding a level which is adequate to protect public health with an ample margin of safety. We have reviewed the GTA study and responded to the GTA on October 11, 2002 with questions and areas that we believe need further analysis. The EPA's request for further information and all information provided by the petitioner to date is located in the docket for today's proposed rule.

The MACT program outlined in CAA section 112(d) is intended to reduce emissions of HAP through the application of MACT to major sources of toxic air pollutants. Section 112(c)(9) is intended to allow EPA to avoid setting MACT standards for sources or subcategories of sources that pose less than a specified level of risk to public health and the environment. The EPA requests comment on whether the proposals described here appropriately coordinate these provisions of CAA section 112. The two health-based approaches focus on assessing inhalation exposures or accounting for adverse environmental impacts. EPA specifically requests comment on the appropriateness and necessity of extending these approaches to account for non-inhalation exposures of certain HAP which may deposit from the atmosphere after being emitted into the air or to account for adverse environmental impacts. In addition to the specific requests for comment noted in this section, we are also interested in any information or comment concerning technical limitations, environmental and cost impacts, compliance assurance, legal rationale, and implementation relevant to the identified approaches. We also request comment on appropriate practicable and verifiable methods to ensure that sources' emissions remain below levels that protect public health and the environment. We will evaluate all comments before determining whether to include an approach in the final rule.

1. Industry HAP Emissions and Potential Health Effects

For the stationary combustion turbines source category, four HAP account for essentially all of the mass of HAP emissions. Those four HAP are formaldehyde, toluene, benzene, and acetaldehyde. Additional HAP which have been measured in emission tests that were conducted at natural gas fired and distillate oil fired combustion turbines are: 1,3 butadiene, acrolein, ethylbenzene, naphthalene, polycyclic aromatic hydrocarbons (PAH), propylene oxide, and xylenes. The following metallic HAP emissions have been measured from distillate oil fired stationary combustion turbines: arsenic, beryllium, cadmium, chromium, lead, manganese, mercury, nickel, and selenium.

Of the four HAP emitted in the largest quantities by this source category, all can cause toxic effects following sufficient exposure. The potential toxic effects of these four HAP are discussed previously in this preamble.

In accordance with section 112(k), EPA developed a list of 33 HAP which present the greatest threat to public

health in the largest number of urban areas. Of the four predominant HAP, three (acetaldehyde, benzene, and formaldehyde) are included on this list for the EPA's Urban Air Toxics Program. Eleven of the other emitted HAP (acrolein, arsenic compounds, beryllium compounds, 1,3-butadiene, cadmium compounds, chromium compounds, lead compounds, manganese compounds, mercury compounds, nickel compounds, and PAH (as POM)) also appear on the list. In November 1998, EPA published ''A Multimedia Strategy for Priority Persistent, Bioaccumulative, and Toxic (PBT) Pollutants.'' None of the predominant four HAP emitted by stationary combustion turbine operations appears on the published list of compounds referred to in the EPA's PBT strategy. Three of the other HAP (mercury compounds, cadmium compounds, and PAH) appear on the list.

Of the HAP emitted by stationary combustion turbine operations, fifteen (acetaldehyde, acrolein, arsenic compounds, benzene, beryllium compounds, 1,3-butadiene, cadmium compounds, chromium compounds, formaldehyde, lead compounds, mercury compounds, naphthalene, nickel compounds, PAH, and propylene oxide) are carcinogens that, at present, are not considered to have thresholds for cancer effects. Formaldehyde, however, is a potential threshold carcinogen, and EPA is currently revising the dose-response assessment for formaldehyde.

2. Applicability Cutoffs for Threshold Pollutants Under Section 112(d)(4) of the CAA

The first approach is an applicability cutoff for threshold pollutants that is based on EPA's authority under CAA section 112(d)(4) to establish standards for HAP which are threshold pollutants. A threshold pollutant is one for which there is a concentration or dose below which adverse effects are not expected to occur over a lifetime of exposure. For such pollutants, CAA section 112(d)(4) allows EPA to consider the threshold level, with an ample margin of safety, when establishing emissions standards. Specifically, CAA section 112(d)(4) allows EPA to establish emission standards that are not based upon the MACT specified under CAA section 112(d)(2) for pollutants for which a health threshold has been established. Such standards may be less stringent than MACT. Historically, EPA has interpreted CAA section 112(d)(4) to allow categories of sources that emit only threshold pollutants to avoid further regulation if those emissions result in ambient levels that do not exceed the threshold, with an ample margin of safety.[2]

A different interpretation would allow us to exempt individual facilities within a source category that meet the CAA section 112(d)(4) requirements. There are three potential scenarios under this interpretation of the CAA section 112(d)(4) provision. One scenario would allow an exemption for individual facilities that emit only threshold pollutants and can demonstrate that their emissions of threshold pollutants would not result in air concentrations above the threshold levels, with an ample margin of safety, even if the category is otherwise subject to MACT. A second scenario would allow the CAA section 112(d)(4) provision to be applied to both threshold and non-threshold pollutants, using the one in a million cancer risk level for decisionmaking for non-threshold pollutants.

A third scenario would allow a CAA section 112(d)(4) exemption at a facility that emits both threshold and non-threshold pollutants. For those emission points where only threshold pollutants are emitted and where emissions of the threshold pollutants would not result in air concentrations above the threshold levels, with an ample margin of safety, those emission points could be exempt from the MACT standards. The MACT standards would still apply to non-threshold emissions from other emission points at the source. For this third scenario, emission points that emit a combination of threshold and nonthreshold pollutants that are co-controlled by MACT would still be subject to the MACT level of control. However, any threshold HAP eligible for exemption under CAA section 112(d)(4) that are controlled by control devices different from those controlling nonthreshold HAP would be able to use the exemption, and the facility would still be subject to the parts of the standards that control non-threshold pollutants or that control both threshold and non-threshold pollutants.

a. Estimation of hazard quotients and hazard indices. Under the CAA section 112(d)(4) approach, EPA would have to determine that emissions of each of the threshold pollutants emitted by stationary combustion turbines at the facility do not result in exposures which exceed the threshold levels, with an ample margin of safety.The common approach for evaluating the potential hazard of a threshold air pollutant is to calculate a hazard quotient by dividing the pollutant's inhalation exposure concentration (often assumed to be equivalent to its estimated concentration in air at a location where people could be exposed) by the pollutant's inhalation Reference Concentration (RfC). An RfC is an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure that, over a lifetime, likely would not result in the occurrence of adverse health effects in humans, including sensitive individuals.

The EPA typically establishes an RfC by applying uncertainty factors to the critical toxic effect derived from the lowest- or no-observed-adverse-effect level of a pollutant.[3] A hazard quotient less than one means that the exposure concentration of the pollutant is less than the RfC, and, therefore, presumed to be without appreciable risk of adverse health effects. A hazard quotient greater than one means that the exposure concentration of the pollutant is greater than the RfC. Further, EPA guidance for assessing exposures to mixtures of threshold pollutants recommends calculating a hazard index (HI) by summing the individual hazard quotients for those pollutants in the mixture that affect the same target organ or system by the same mechanism.[4] The HI values would be interpreted similarly to hazard quotients; values below one would generally be considered to be without appreciable risk of adverse health effects, and values above one would generally be cause for concern.

For the determinations discussed herein, EPA would generally plan to use RfC values contained in EPA's toxicology database, the Integrated Risk Information System (IRIS). When a pollutant does not have an approved RfC in IRIS, or when a pollutant is a carcinogen, EPA would have to determine whether a threshold exists based upon the availability of specific data on the pollutant's mode or mechanism of action, potentially using a health threshold value from an alternative source such as the Agency for Toxic Substances and Disease Registry (ATSDR) or the California Environmental Protection Agency (CalEPA).

Table 3 provides RfC, as well as unit risk estimates, for the HAP emitted by

[2] See 63 FR 18754, 18765–66 (April 15, 1998) (Pulp and Paper Sources Proposed NESHAP)

[3] ''Methods for Derivation of Inhalation Reference Concentrations and Applications of Inhalation Dosimetry.'' EPA–600/8–90–066F, Office of Research and Development, USEPA, October 1994.

[4] ''Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures. Risk Assessment Forum Technical Panel,'' EPA/630/R–00/002. USEPA, August 2000. *http://www.epa.gov/nceawww1/pdfs/chem_mix/chem_mix08_2001.pdf.*[2]

combustion turbine operations. A unit risk estimate is defined as the upper-bound excess lifetime cancer risk estimated to result from continuous exposure to an agent at a concentration of 1 ug/m^3 in the air.

TABLE 3.—DOSE-RESPONSE ASSESSMENT VALUES FOR HAP REPORTED EMITTED BY THE COMBUSTION TURBINE SOURCE CATEGORY

Chemical name	CAS No.	Reference concentration [a] (mg/m^3)	Unit risk estimate [b] (1/(ug/m^3))
Acetaldehyde	75–07–0	9.0E–03 IRIS	2.2E–06 IRIS
Acrolein	107–02–8	2.0E–05 IRIS	
Arsenic compounds	7440–38–2	3.0E–05 CAL	4.3E–03 IRIS
Benzene	71–43–2	6.0E–02 CAL	7.8E–06 IRIS
Beryllium compounds	7440–41–7	2.0E–05 IRIS	2.4E–03 IRIS
1,3-Butadiene	106–99–0	2.0E–03 IRIS	3.0E–05 EPA ORD
Cadmium compounds	7440–43–9	2.0E–05 IRIS	1.8E–03 IRIS
Chromium (VI) compounds	18540–29–9	1.0E–04 IRIS	1.2E–02 IRIS
Ethyl benzene	100–41–4	1.0E+00 IRIS	
Formaldehyde	50–00–0	9.8E–03 ATSDR	1.3E–05 IRIS
Lead compounds	7439–92–1		1.2E–05 CAL
Manganese compounds	7439–96–5	5.0E–05 IRIS	
Mercury compounds	HG_CMPDS	9.0E–05 CAL	
Naphthalene	91–20–3	3.0E–03 IRIS	
Nickel compounds	7440–02–0	2.0E–04 ATSDR	9.1E–01 CAL
PAH (shown below as 7–PAH)			
Benzo (a) anthracene	56–55–3		1.1E–04 CAL
Benzo (b) fluoranthene	205–99–2		1.1E–04 CAL
Benzo (k) fluoranthene	207–08–9		1.1E–04 CAL
Benzo (a) pyrene	50–32–8		1.1E–03 CAL
Chrysene	218–01–9		1.1E–05 CAL
Dibenz (a,h) anthracene	53–70–3		1.2E–03 CAL
Indeno (1,2,3-cd) pyrene	193–39–5	.	1.4E–04 CAL
Propylene oxide	75–56–9	3.0E–02 IRIS	3.7E–06 IRIS
Selenium compounds	7782–49–2	2.0E–02 CAL	
Toluene	108–88–3	4.0E–01 IRIS	
Xylenes (mixed)	1330–20–7	4.3E–01 ATSDR	

[a] Reference Concentration: An estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups which include children, asthmatics, and the elderly) that is likely to be without an appreciable risk of deleterious effects during a lifetime. It can be derived from various types of human or animal data, with uncertainty factors generally applied to reflect limitations of the data used.

[b] Unit Risk Estimate: The upper-bound excess lifetime cancer risk estimated to result from continuous exposure to an agent at a concentration of 1 ug/m^3 in air. The interpretation of the Unit Risk Estimate would be as follows: If the Unit Risk Estimate = 1.5 × 10–6 per ug/m^3, 1.5 excess tumors are expected to develop per 1,000,000 people if exposed daily for a lifetime to 1 ug of the chemical in 1 cubic meter of air. Unit Risk Estimates are considered upper bound estimates, meaning they represent a plausible upper limit to the true value. (Note that this is usually not a true statistical confidence limit.) The true risk is likely to be less, but could be greater.

Sources:

IRIS = EPA Integrated Risk Information System (*http://www.epa.gov/iris/subst/index.html*).

ATSDR = U.S. Agency for Toxic Substances and Disease Registry (*http://www.atsdr.cdc.gov/mrls.html*).

CAL = California Office of Environmental Health Hazard Assessment. (*http://www.oehha.ca.gov/air/hot_spots/index.html*).

HEAST = EPA Health Effects Assessment Summary Tables (#PB(=97–921199, July 1997).

To establish an applicability cutoff under CAA section 112(d)(4), EPA would need to define ambient air exposure concentration limits for any threshold pollutants involved. There are several factors to consider when establishing such concentrations. First we would need to ensure that the concentrations that would be established would protect public health with an ample margin of safety. As discussed above, the approach EPA commonly uses when evaluating the potential hazard of a threshold air pollutant is to calculate the pollutant's hazard quotient, which is the exposure concentration divided by the RfC. The EPA's ''Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures'' suggests that the noncancer health effects associated with a mixture of pollutants ideally are assessed by considering the pollutants' common mechanisms of toxicity [5]. The guidance also suggests that when exposures to mixtures of pollutants are being evaluated, the risk assessor may calculate a HI. The recommended method is to calculate multiple hazard indices for each exposure route of interest, and for a single specific toxic effect or toxicity to a single target organ. The default approach recommended by the guidance is to sum the hazard quotients for those pollutants that induce the same toxic effect or affect the same target organ. A mixture is then assessed by several HI, each representing one toxic effect or target organ. The guidance notes that the pollutants included in the HI calculation are any pollutants that show the effect being assessed, regardless of the critical effect upon which the RfC is based. The guidance cautions that if the target organ or toxic effect for which the HI is calculated is different from the RfC's critical effect, then the RfC for that chemical will be an overestimate, that is, the resultant HI potentially may be overprotective. Conversely, since the calculation of a HI does not account for the fact that the potency of a mixture of HAP can be more potent than the sum of the individual HAP potencies, a HI may potentially be underprotective in some situations.

[5] ibid.

b. Options for establishing a HI limit. One consideration in establishing a HI limit is whether the analysis considers the total ambient air concentrations of all the emitted HAP to which the public is exposed [6]. There are several options for establishing a HI limit for the § 112(d)(4) analysis that reflect, to varying degrees, public exposure.

One option is to allow the hazard index posed by all threshold HAP emitted by combustion turbines at the facility to be no greater than one. This approach is protective if no additional threshold HAP exposures would be anticipated from other sources at, or in the vicinity of, the facility or through other routes of exposure (*i.e.*, through ingestion).

A second option is to adopt a default percentage approach, whereby the HI limit of the HAP emitted by the facility is set at some percentage or fraction of one (*e.g.*, 20 percent or 0.2). This approach recognizes the fact that the facility in question is only one of many sources of threshold HAP to which people are typically exposed every day. Because noncancer risk assessment is predicated on total exposure or dose, and because risk assessments focus only on an individual source, establishing a HI limit of 0.2 would account for an assumption that 20 percent of an individual's total exposure is from that individual source. For the purposes of this discussion, we will call all sources of HAP, other than operations within the source category at the facility in question, ''background'' sources. If the affected source is allowed to emit HAP such that its own impacts could result in HI values of one, total exposures to threshold HAP in the vicinity of the facility could be substantially greater than one due to background sources, and this would not be protective of public health, since only HI values below one are considered to be without appreciable risk of adverse health effects. Thus, setting the HI limit for the facility at some default percentage of one will provide a buffer which would help to ensure that total exposures to threshold HAP near the facility (*i.e.*, in combination with exposures due to background sources) will generally not exceed one, and can generally be considered to be without appreciable risk of adverse health effects.

The EPA requests comment on using the default percentage approach and on setting the default HI limit at 0.2. The EPA is also requesting comment on whether an alternative HI limit, in some multiple of one, would be a more appropriate applicability cutoff.

A third option is to use available data (from scientific literature or EPA studies, for example) to determine background concentrations of HAP, possibly on a national or regional basis. These data would be used to estimate the exposures to HAP from non-combustion turbine sources in the vicinity of an individual facility. For example, EPA's National Scale Air Toxics Assessment (NATA) [7] and ATSDR's Toxicological Profiles [8] contain information about background concentrations of some HAP in the atmosphere and other media. The combined exposures from an affected source and from background emissions (as determined from the literature or studies) would then not be allowed to exceed a HI limit of 1. The EPA requests comment on the appropriateness of setting the hazard index limit at one for such an analysis.

A fourth option is to allow facilities to estimate or measure their own facility-specific background HAP concentrations for use in their analysis. With regard to the third and fourth options, EPA requests comment on how these analyses could be structured. Specifically, EPA requests comment on how the analyses should take into account background exposure levels from air, water, food and soil encountered by the individuals exposed to emissions from this source category. In addition, we request comment on how such analyses should account for potential increases in exposures due to the use of a new HAP or the increased use of a previously emitted HAP, or the effect of other nearby sources that release HAP.

The EPA requests comment on the feasibility and scientific validity of each of these or other options. Finally, EPA requests comment on how we should implement the CAA section 112(d)(4) applicability cutoffs, including appropriate mechanisms for applying cutoffs to individual facilities. For example, would the title V permit process provide an appropriate mechanism?

c. Tiered analytical approach for predicting exposure. Establishing that a facility meets the cutoffs established under CAA section 112(d)(4) will necessarily involve combining estimates of pollutant emissions with air dispersion modeling to predict exposures. The EPA envisions that we would promote a tiered analytical approach for these determinations. A tiered analysis involves making successive refinements in modeling methodologies and input data to derive successively less conservative, more realistic estimates of pollutant concentrations in air and estimates of risk.

As a first tier of analysis, EPA could develop a series of simple look-up tables based on the results of air dispersion modeling conducted using conservative input assumptions. By specifying a limited number of input parameters, such as stack height, distance to property line, and emission rate, a facility could use these look-up tables to determine easily whether the emissions from their sources might cause a hazard index limit to be exceeded.

A facility that does not pass this initial conservative screening analysis could implement increasingly more site-specific but more resource-intensive tiers of analysis using EPA-approved modeling procedures, in an attempt to demonstrate that their facility does not exceed the HI limit. Existing EPA guidance could provide the basis for conducting such a tiered analysis. [9]

The EPA requests comment on methods for constructing and implementing a tiered analysis for determining applicability of the CAA section 112(d)(4) criterion to specific combustion turbine sources. Ambient monitoring data could possibly be used to supplement or supplant the tiered modeling analysis described above. We envision that the appropriate monitoring to support such a determination could be extensive. The EPA requests comment on the appropriate use of monitoring in the determinations described above.

d. Accounting for dose-response relationships. In the past, EPA routinely treated carcinogens as nonthreshold pollutants. The EPA recognizes that advances in risk assessment science and policy may affect the way EPA differentiates between threshold and nonthreshold HAP. The EPA's draft Guidelines for Carcinogen Risk Assessment [10] suggest that carcinogens be assigned non-linear dose-response relationships where data warrant. Moreover, it is possible that dose-response curves for some pollutants may reach zero risk at a dose greater

[6] Senate Debate on Conference Report (October 27, 1990), reprinted in ''A Legislative History of the Clean Air Act Amendments of 1990,'' Comm. Print S. Prt. 103–38 (1993) (''Legis. Hist.'') at 868.

[7] *See http://www.epa.gov/ttn/atw/nata.*

[8] *See http://www.atsdr.cdc.gov/toxpro2.html.*

[9] ''A Tiered Modeling Approach for Assessing the Risks due to Sources of Hazardous Air Pollutants.'' EPA–450/4–92–001. David E. Guinnup, Office of Air Quality Planning and Standards, USEPA, March 1992.

[10] ''Draft Revised Guidelines for Carcinogen Risk Assessment.'' NCEA–F–0644, USEPA, Risk Assessment Forum, July 1999. pp 3–9ff. *http://www.epa.gov/ncea/raf/pdfs/cancer__gls.pdf.*

than zero, creating a threshold for carcinogenic effects. It is possible that future evaluations of the carcinogens emitted by this source category would determine that one or more of the carcinogens in the category is a threshold carcinogen or is a carcinogen that exhibits a non-linear dose-response relationship but does not have a threshold.

The dose-response assessment for formaldehyde is currently undergoing revision by EPA. As part of this revision effort, EPA is evaluating formaldehyde as a potential non-linear carcinogen. The revised dose-response assessment will be subject to review by the EPA Science Advisory Board, followed by full consensus review, before adoption into the EPA IRIS. At this time, EPA estimates that the consensus review will be completed by the end of 2003. The revision of the dose-response assessment could affect the potency factor of formaldehyde, as well as its status as a threshold or nonthreshold pollutant. At this time, the outcome is not known. In addition to the current reassessment by EPA, there have been several reassessments of the toxicity and carcinogenicity of formaldehyde in recent years, including work by the World Health Organization and the Canadian Ministry of Health.

The EPA requests comment on how we should consider the state of the science as it relates to the treatment of threshold pollutants when making determinations under CAA section CAA section 112(d)(4). In addition, EPA requests comment on whether there is a level of emissions of a non-threshold carcinogenic HAP at which it would be appropriate to allow a facility to use the scenarios discussed under the CAA section 112(d)(4) approach.

If the CAA section 112(d)(4) approach were adopted, the requirements of the rule as proposed would not apply to any source that demonstrates, based on a tiered analysis that includes EPA-approved modeling of the affected source's emissions, that the anticipated HAP exposures do not exceed the specified HI limit.

3. Subcategory Delisting Under Section 112(c)(9)(B) of the CAA

The EPA is authorized to establish categories and subcategories of sources, as appropriate, pursuant to CAA section 112(c)(1), in order to facilitate the development of MACT standards consistent with section 112 of the CAA. Further, section CAA section 112(c)(9)(B) allows EPA to delete a category (or subcategory) from the list of major sources for which MACT standards are to be developed when the following can be demonstrated: (1) In the case of carcinogenic pollutants, that ''no source in the category * * * emits [carcinogenic] air pollutants in quantities which may cause a lifetime risk of cancer greater than one in 1 million to the individual in the population who is most exposed to emissions of such pollutants from the source''; (2) in the case of pollutants that cause adverse noncancer health effects, that ''emissions from no source in the category or subcategory * * * exceed a level which is adequate to protect public health with an ample margin of safety''; and (3) in the case of pollutants that cause adverse environmental effects, that ''no adverse environmental effect will result from emissions from any source.''

One way in which the Agency could use these authorities would be to define a subcategory of facilities within the source category based upon technological differences, such as differences in turbine design characteristics, fuel type, production rate, emission vent flow rates, overall facility size, emissions characteristics, processes, or air pollution control device viability. The EPA requests comment on how we might establish subcategories based on these, or other, source characteristics. If it could then be determined that each source in this technologically-defined subcategory presents a low risk to the surrounding community, the subcategory could then be delisted in accordance with CAA section 112(c)(9). The GTA letter discussed above provides two examples of technological differences that may allow us to create subcategories of stationary combustion turbines. Those subcategories could be delisted if it were demonstrated that they met the requirements of CAA section 112(c)(9).

The GTA letter includes information on the risks created by emissions from lean-premix turbines. We are already proposing a subcategory for lean-premix turbines and in that discussion describe how these turbines are clearly technologically different from other types of stationary combustion turbines. While the GTA letter did not provide sufficient information for us to delist lean-premix turbines at this time, lean-premix turbines are a subcategory that could be delisted if GTA or other commenters provide sufficient information for us to determine that this subcategory satisfies the requirements of CAA section 112(c)(9).

Natural gas fired turbines are another example of a subcategory that might be delisted under this approach. We have created subcategories based on fuel type in other MACT rules and believe that fuel type could be an appropriate way of subcategorizing stationary combustion turbines or of creating further subdivisions within the subcategories contained in the proposed rule. We are not proposing a subcategory for natural gas fired turbines at this time, although we could create such a subcategory in the future, if appropriate. While the information presented in GTA's letter is not sufficient for us to make this determination at this time, additional information on the emissions and risks from natural gas fired turbines could lead us to delist natural gas fired turbines under this approach.

The EPA requests comment on the concept of identifying technologically-based subcategories that may include only low-risk facilities within the combustion turbine source category and on the specific examples presented above.

Another approach to using the authority granted in CAA section 112(c)(9) is presented in the white paper prepared by representatives of the plywood and composite wood products industry (see docket OAR 2002–0060). The EPA is considering whether it would be possible to establish a subcategory of facilities within the larger source category that would meet the risk-based criteria for delisting. Such criteria would likely include the same requirements as described previously for the second scenario under the CAA section 112(d)(4) approach, whereby a facility would be in the low-risk subcategory if its emissions of threshold pollutants do not result in exposures which exceed the HI limits and if its emissions of nonthreshold pollutants do not exceed a cancer risk level of 10^{-6}. The EPA requests comment on what an appropriate HI limit would be for a determination that a facility be included in the low-risk subcategory.

Since each facility in such a subcategory would be a low-risk facility (*i.e.*, if each met these criteria), the subcategory could be delisted in accordance with CAA section 112(c)(9), thereby limiting the costs and impacts of the proposed MACT rule to only those facilities that do not qualify for subcategorization and delisting.

Facilities seeking to be included in the delisted subcategory would be responsible for providing all data required to determine whether they are eligible for inclusion. Facilities that could not demonstrate that they are eligible to be included in the low-risk subcategory would be subject to MACT and possible future residual risk standards. The EPA solicits comment on

implementing a risk-based approach for establishing subcategories of stationary combustion turbines.

Since each facility in such a subcategory would be a low-risk facility (*i.e.*, if each met these criteria), the subcategory could be delisted in accordance with CAA section 112(c)(9), thereby limiting the costs and impacts of the proposed MACT rule to only those facilities that do not qualify for subcategorization and delisting.

Establishing that a facility qualifies for the low-risk subcategory under CAA section 112(c)(9) will necessarily involve combining estimates of pollutant emissions with air dispersion modeling to predict exposures. The EPA envisions that we would employ the same tiered analysis described earlier in the CAA section 112 (d)(4) discussion for these determinations.

One concern that EPA has with respect to the CAA section 112(c)(9) approach is the effect that it could have on the MACT floors. If many of the facilities in the low-risk subcategory are well-controlled, that could make the MACT floor less stringent for the remaining facilities. One approach that has been suggested to mitigate this effect would be to establish the MACT floor now based on controls in place for the entire category and to allow facilities to become part of the low-risk subcategory in the future, after the MACT standards are established. This would allow low-risk facilities to use the CAA section 112(c)(9) exemption without affecting the MACT floor calculation. The EPA requests comment on this suggested approach.

If a CAA section 112(c)(9) approach were adopted, the requirements of the rule as proposed would not apply to any source that demonstrates that it belongs in a subcategory which has been delisted under CAA section 112(c)(9).

C. Limited Use Subcategory

We are soliciting comments on creating a subcategory of limited use stationary combustion turbines with capacity utilization of 10 percent or less (876 or fewer hours of annual operation). Units in this subcategory would include combustion turbines used for electric power peak shaving that are called upon to operate fewer than 876 hours per year. These units operate only during peak energy use periods, typically in the summer months. We believe that these infrequently operated units typically operate 10 percent of the year or less. While these are potential sources of emissions, and it is appropriate for EPA to address them in the proposed rule, the Agency believes that their use and operation are different compared to typical combustion turbines. We believe that it may be appropriate for such limited use units to have their own subcategory. Therefore, we are soliciting comment on subcategorizing combustion turbines having a capacity utilization of less than 10 percent.

We are interested in comments on creating a subcategory for limited use peak shaving (less than 10 percent capacity utilization) combustion turbines. We are interested in comments on the validity and appropriateness under the CAA for a subcategory for limited use peak shaving combustion turbines, data on the levels of control currently achieved by such combustion turbines, and any technical limitations that might make it impossible to achieve control of emissions from limited use peak shaving combustion turbines.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a regulatory action is ''significant'' and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that the proposed rule is a ''significant regulatory action'' within the meaning of the Executive Order. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are included in the docket.

B. Executive Order 13132, Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

The proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

We are required by section 112 of the CAA, 42 U.S.C. § 7412, to establish the standards in the proposed rule. The proposed rule primarily affects private industry, and does not impose significant economic costs on State or local governments. The proposed rule does not include an express provision preempting State or local regulations. Thus, the requirements of section 6 of the Executive Order do not apply to the proposed rule.

Although section 6 of Executive Order 13132 does not apply to the proposed rule, we consulted with representatives of State and local governments to enable them to provide meaningful and timely input into the development of the proposed rule. This consultation took place during the ICCR FACA committee meetings where members representing State and local governments participated in developing recommendations for EPA's combustion-related rulemakings, including the proposed rule. The concerns raised by representatives of State and local governments were considered during the development of the proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on the proposed rule from State and local officials.

C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal

implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

The proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. We do not know of any stationary combustion turbines owned or operated by Indian tribal governments. However, if there are any, the effect of these rules on communities of tribal governments would not be unique or disproportionate to the effect on other communities. Thus, Executive Order 13175 does not apply to the proposed rule.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives.

We interpret Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. The proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 (66 FR 28355, May 22, 2001), provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, a Statement of Energy Effects for certain actions identified as ''significant energy actions.'' Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1) (i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.'' The proposed rule is a significant regulatory action within the meaning of Executive Order 12866. We have, therefore, prepared a Statement of Energy Effects for this action as follows.

The increase in petroleum product output, which includes increases in fuel production, is estimated at 0.003 percent, or about 475 barrels per day based on 2000 U.S. fuel production nationwide. The reduction in coal production is estimated at 0.006 percent, or about 700,000 short tons per year based on 2000 U.S. coal production nationwide. The reduction in electricity output is estimated at 0.02 percent, or about 4.9 billion kilowatt-hours per year based on 2000 U.S. electricity production nationwide. Production of natural gas is expected to increase by 3.0 million cubic feet (ft^3) per day. The maximum of all energy price increases, which include increases in natural gas prices as well as those for petroleum products, coal, and electricity, is estimated to be the 0.18 percent increase in peak-load electricity rates nationwide. Energy distribution costs may increase by roughly no more than the same amount as electricity rates. We expect that there will be no discernable impact on the import of foreign energy supplies, and no other adverse outcomes are expected to occur with regards to energy supplies. Also, the increase in cost of energy production should be minimal given the very small increase in fuel consumption resulting from back pressure related to operation of oxidation catalyst emission control devices. All of the estimates presented above account for some passthrough of costs to consumers as well as the direct cost impact to producers. For more information on these estimated energy effects, please refer to the economic impact analysis for the proposed rule. This analysis is available in the public docket.

No new combustion turbines with a capacity of less than 1.0 MW will be affected. Also, the control level applied to affected new combustion turbines is the minimum that can be applied consistent with the provisions of the Clean Air Act.

Therefore, we conclude that the proposed rule when implemented will not have a significant adverse effect on the supply, distribution, or use of energy.

F. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, we generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must develop a small government agency plan under section 203 of the UMRA. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that the proposed rule contains a Federal mandate that will not result in expenditures of $100 million or more

for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Accordingly, we have not prepared a written statement under section 202 of the UMRA.

1. Statutory Authority

As discussed in previously in this preamble, the statutory authority for the proposed rulemaking is section 112 of the CAA. Title III of the CAA was enacted to reduce nationwide air toxic emissions. Section 112(b) of the CAA lists the 188 chemicals, compounds, or groups of chemicals deemed by Congress to be HAP. These toxic air pollutants are to be regulated by NESHAP.

Section 112(d) of the CAA directs us to develop NESHAP which require existing and new major sources to control emissions of HAP using MACT. The NESHAP apply to all stationary combustion turbines located at major sources of HAP emissions, however, only new or reconstructed stationary combustion turbines have substantive regulatory requirements.

In compliance with section 205(a) we identified and considered a reasonable number of regulatory alternatives. Additional information on the costs and environmental impacts of the regulatory alternatives is presented in the ''Stationary Combustion Turbines Control Options Cost Information Summary'' in the docket.

The regulatory alternative upon which the proposed rule is based represents the MACT floor for stationary combustion turbines and, as a result, it is the least costly and least burdensome alternative. In addition, we have conducted an economic impact analysis of today's proposed rule that includes the impacts on State and local government entities in order to provide information on the effects of the proposed rule on such entities. The analysis is available in the docket for the proposed rule.

2. Consultation With Government Officials

The Unfunded Mandates Act requires that we describe the extent of the Agency's prior consultation with affected State, local, and tribal officials, summarize the officials' comments or concerns, and summarize our response to those comments or concerns.

In addition, section 203 of the UMRA requires that we develop a plan for informing and advising small governments that may be significantly or uniquely impacted by a proposal. Although the proposed rule does not significantly affect any State, local, or tribal governments, we have consulted with State and local air pollution control officials. We also have held meetings on the proposed rule with many of the stakeholders from numerous individual companies, environmental groups, consultants and vendors, labor unions, and other interested parties. We have added materials to the Air docket to document those meetings.

In addition, we have determined that the proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 100 or 1,000 employees, depending on size definition for the affected North American Industry Classification System (NAICS) code, or fewer than 4 billion kW-hr per year of electricity usage; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. It should be noted that small entities in 6 NAICS codes are affected by the proposed rule, and the small business definition applied to each industry by NAICS code is that listed in the Small Business Administration (SBA) size standards (13 CFR 121).

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This certification is based upon (1) examining the impacts to small entities based on the existing combustion turbines inventory, and presuming that the existing mix of combustion turbines among industries is a good approximation of the mix of turbines that will be installed and affected by the proposed rule up to 2005, and (2) considering influences on the decision by small entities to install new turbines. We have determined, based on the existing combustion turbines inventory, that 29 small entities out of 300 in the industries impacted by the proposed rule may be affected. None of these small entities will incur control costs associated with the proposed rule, but will incur monitoring, recordkeeping, and reporting costs and the costs of performance testing. These 29 small entities own 51 affected turbines in the existing combustion turbines inventory, which represents only 2.5 percent of the existing turbines overall. Of these entities, 22 of these entities are small communities and 7 are affected small firms. None of the 29 affected small entities are estimated to have compliance costs that exceed one-half of 1 percent of their revenues. The median compliance costs to affected small entities is only 0.07 percent of sales. In addition, the proposed rule is likely to also increase profits at the many small firms and increase revenues for the many small communities using combustion turbines that are not affected by the rule as a result of the very slight increase in market prices. Thus, we conclude that the proposed rule will not have a significant impact on a substantial number of small entities. It should be noted that it is likely that the ongoing deregulation of the electric power industry across the nation should minimize the proposed rule's impacts on small entities. Increased competition in the electric power industry is forecasted to decrease the market price for wholesale electric power. Open access to the grid and lower market prices for electricity will make it less attractive for local communities to purchase and operate new combustion turbines. For more information on the results of the analysis of small entity impacts, please refer to the economic impact analysis in the docket.

Although the proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of the rule on small entities. In the proposed rule, the Agency is applying the minimum level of control and the minimum level of monitoring, recordkeeping, and reporting to affected sources allowed by the Clean Air Act. In addition, as mentioned earlier in the preamble, new turbines with capacities under 1.0 MW are not covered by the

proposed rule. This provision should reduce the level of small entity impacts. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

H. Paperwork Reduction Act

The information collection requirements in the proposed rule will be submitted for approval to the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared (ICR No. 1967.01) and a copy may be obtained from Susan Auby by mail at the Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Avenue NW, Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the internet at *http://www.epa.gov/icr*.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

The proposed rule would require maintenance inspections of the control devices but would not require any notifications or reports beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) is estimated to be 8,458 labor hours per year at a total annual cost of $2.4 million. This estimate includes a one-time performance test, semiannual excess emission reports, maintenance inspections, notifications, and recordkeeping. Total capital/startup costs associated with the monitoring requirements over the 3-year period of the ICR are estimated at $515,262, with operation and maintenance costs of $21,047 per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for our regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked Attention: Desk Officer for EPA. Include the ICR number in any correspondence.

Since OMB is required to make a decision concerning the ICR between 30 and 60 days after January 14, 2003, a comment to OMB is best assured of having its full effect if OMB receives it by February 13, 2003. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs us to provide Congress, through annual reports to the Office of Management and Budget (OMB), with explanations when an agency does not use available and applicable voluntary consensus standards.

The proposed rulemaking involves technical standards. We propose in the rule to use EPA Methods 1, 1A, 3A, 3B, 4 of 40 CFR part 60, appendix A; Method 320 of 40 CFR part 63, appendix A; Method 323 of 40 CFR part 63, appendix A; Performance Specification (PS) 3, PS 4A of 40 CFR part 60, appendix B; EPA SW–846 Method 0011; and ARB Method 430, California Environmental Protection Agency, Air Resources Board, 2020 L Street, Sacramento, CA 95812. Consistent with the NTTAA, we conducted searches to identify voluntary consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 3B of 40 CFR part 60, appendix A; PS 3, PS 4 of 40 CFR part 60, appendix B; and ARB Method 430, California Environmental Protection Agency, Air Resources Board, 2020 L Street, Sacramento, CA 95812. The search and review results have been documented and are placed in the docket for the proposed rule.

This search for emission measurement procedures identified nine voluntary consensus standards. We determined that six of these nine standards were impractical alternatives to EPA test methods for the purposes of the proposed rulemaking. Therefore, we do not propose to adopt these standards today. The reasons for this determination for the six methods are discussed below.

Two of the six voluntary consensus standards are impractical alternatives to EPA test methods for the purposes of the proposed rulemaking because they are too general, too broad, or not sufficiently detailed to assure compliance with EPA regulatory requirements: ASTM E337–84 (Reapproved 1996), ''Standard Test Method for Measuring Humidity with a Psychrometer (the Measurement of Wet- and Dry-Bulb Temperatures),'' for EPA Method 4; and CAN/CSA Z223.2–M86(1986), ''Method for the Continuous Measurement of Oxygen, Carbon Dioxide, Carbon Monoxide, Sulphur Dioxide, and Oxides of Nitrogen in Enclosed Combustion Flue Gas Streams,'' for EPA Method 3A of 40 CFR part 60, appendix A.

Four of the six voluntary consensus standards are impractical alternatives to EPA test methods for the purposes of the proposed rulemaking because they

lacked sufficient quality assurance and quality control requirements necessary for EPA compliance assurance requirements: ASTM D3154–91, ''Standard Method for Average Velocity in a Duct (Pitot Tube Method),'' for EPA Methods 1, 2, 2C, 3, 3B, and 4 of 40 CFR part 60, appendix A; ASTM D5835–95, ''Standard Practice for Sampling Stationary Source Emissions for Automated Determination of Gas Concentration,'' for EPA Method 3A of 40 part 60, appendix A; ISO 10396:1993, ''Stationary Source Emissions: Sampling for the Automated Determination of Gas Concentrations,'' for EPA Method 3A of 40 CFR part 60, appendix A; and ISO 9096:1992, ''Determination of Concentration and Mass Flow Rate of Particulate Matter in Gas Carrying Ducts—Manual Gravimetric Method,'' for EPA Method 5 of 40 CFR part 60, appendix A.

The following three of the nine voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of the proposed rulemaking because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, ''Flow Measurement by Velocity Traverse,'' for EPA Method 1 (and possibly 2) of 40 CFR part 60, appendix A; ISO/DIS 12039, ''Stationary Source Emissions—Determination of Carbon Monoxide, Carbon Dioxide, and Oxygen—Automated Methods,'' for EPA Method 3A of 40 CFR part 60, appendix A; and ASTM D6348–98, ''Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy,'' for EPA Method 320 of 40 CFR part 63, appendix A. While we are not proposing to include these three voluntary consensus standards in today's proposal, we will consider the standards when final.

For the voluntary consensus standard, ASTM D6348–98, Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy, we have submitted comments to ASTM regarding EPA's technical evaluation of ASTM D6348–98. Currently, the ASTM Subcommittee D22–03 is undertaking a revision of the ASTM standard in part to address EPA's comments. Upon successful ASTM balloting and demonstration of technical equivalency with the EPA's FTIR methods, the revised ASTM standard could be incorporated by reference into the proposed rule at a later date.

We are taking comment on the compliance demonstration requirements in the proposed rulemaking and specifically invite the public to identify potentially-applicable voluntary consensus standards. Commenters should also explain why the proposed rule should adopt these voluntary consensus standards in lieu of or in addition to EPA's standards. Emission test methods and performance specifications submitted for evaluation should be accompanied with a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if a method other than Method 301, 40 CFR part 63, Appendix A, was used).

Tables 3 and 5 of proposed subpart YYYY list the EPA testing methods and performance standards included in the proposed rule. Under § 63.8 of 40 CFR part 63, subpart A, a source may apply to EPA for permission to use alternative monitoring in place of any of the EPA testing methods.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 26, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of the Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Part 63 is proposed to be amended by adding subpart YYYY to read as follows:

Subpart YYYY—National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines

What This Subpart Covers

Sec.

Emission and Operating Limitations

General Compliance Requirements

Testing and Initial Compliance Requirements

Continuous Compliance Requirements

Notifications, Reports, and Records

Other Requirements and Information

Tables to Subpart YYYY of Part 63

What This Subpart Covers

§ 63.6080 What is the purpose of subpart YYYY?

Subpart YYYY establishes national emission limitations and operating limitations for hazardous air pollutants (HAP) emissions from stationary combustion turbines located at major sources of HAP emissions and requirements to demonstrate initial and continuous compliance with the emission and operating limitations.

§ 63.6085 Am I Subject to This Subpart?

You are subject to this subpart if you own or operate a stationary combustion turbine located at a major source of HAP emissions.

(a) A stationary combustion turbine is one that is not self propelled or intended to be propelled while performing its function, although it may be mounted on a vehicle for portability or transportability. Stationary combustion turbines covered by this subpart include simple cycle stationary combustion turbines, regenerative/recuperative cycle stationary combustion turbines, cogeneration cycle stationary combustion turbines, and combined cycle stationary combustion turbines.

(b) A major source of HAP emissions is a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year, except that for oil and gas production facilities, a major source of HAP emissions is determined for each surface site.

§ 63.6090 What parts of my plant does this subpart cover?

This subpart applies to each affected source.

(a) *Affected source.* An affected source is any existing, new, or reconstructed stationary combustion turbine located at a major source of HAP emissions.

(1) *Existing stationary combustion turbine.* A stationary combustion turbine is existing if you commenced construction or reconstruction of the stationary combustion turbine on or before January 14, 2003. A change in ownership of an existing stationary combustion turbine does not make that stationary combustion turbine a new or reconstructed stationary combustion turbine.

(2) *New stationary turbine.* A stationary combustion turbine is new if you commenced construction of the stationary combustion turbine after January 14, 2003.

(3) *Reconstructed stationary turbine.* A stationary combustion turbine is reconstructed if you meet the definition of reconstruction in § 63.2 of subpart A of this part and reconstruction is commenced after January 14, 2003.

(b) *Exceptions.* (1) A new or reconstructed stationary combustion turbine located at a major source or an existing lean premix stationary combustion turbine located at a major source which meets any of the following criteria does not have to meet the requirements of this subpart and of subpart A of this part except for the initial notification requirements of § 63.6145(d):

(i) The stationary combustion turbine is an emergency stationary combustion turbine;

(ii) The stationary combustion turbine is a limited use stationary combustion turbine; or

(iii) The stationary combustion turbine burns landfill gas or digester gas as the primary fuel.

(2) An existing, new, or reconstructed stationary combustion turbine with a rated peak power output of less than 1.0 megawatt (MW) at International Organization for Standardization (ISO) standard day conditions, which is located at a major source, does not have to meet the requirements of this subpart and of subpart A of this part.

(3) Existing diffusion flame stationary combustion turbines do not have to meet the requirements of this subpart and of subpart A of this part.

(4) Combustion turbine engine test cells/stands do not have to meet the requirements of this subpart but may have to meet the requirements of subpart A of this part if subject to another subpart.

§ 63.6092 Are duct burners and waste heat recovery units covered by subpart YYYY?

No, duct burners and waste heat recovery units are considered steam generating units and are not covered under this subpart.

§ 63.6095 When do I have to comply with this subpart?

(a) *Affected sources.* (1) If you start up your new or reconstructed stationary combustion turbine before [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER], you must comply with the emission limitations and operating limitations in this subpart no later than [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER].

(2) If you start up your new or reconstructed stationary combustion turbine after [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER], you must comply with the emission limitations and operating limitations in this subpart upon startup of your affected source.

(3) If you have an existing stationary combustion turbine, you must comply with the emission limitations and operating limitations in this subpart no later than 3 years after [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER].

(b) *Area sources that become major sources.* If your new or reconstructed stationary combustion turbine is an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, it must be in compliance with this subpart when it becomes a major source.

(c) You must meet the notification requirements in § 63.6145 according to the schedule in § 63.6145 and in 40 CFR part 63, subpart A.

Emission and Operating Limitations

§ 63.6100 What emission and operating limitations must I meet?

For each stationary combustion turbine with a rated peak power output of 1.0 MW or greater at ISO standard day conditions located at a major source, which is not:

(a) An emergency stationary combustion turbine;

(b) A stationary combustion turbine burning landfill gas or digester gas as its primary fuel;

(c) A limited use stationary combustion turbine; or

(d) An existing diffusion flame stationary combustion turbine; you must comply with the emission limitations and operating limitations in Table 1 and Table 2 of this subpart.

General Compliance Requirements

§ 63.6105 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations and operating limitations which apply to you at all times except during startup, shutdown, and malfunctions.

(b) If you must comply with emission and operating limitations, you must operate and maintain your stationary combustion turbine, oxidation catalyst emission control device or other air pollution control equipment, and monitoring equipment in a manner consistent with good air pollution control practices for minimizing emissions at all times including during startup, shutdown, and malfunction.

Testing and Initial Compliance Requirements

§ 63.6110 By what date must I conduct the initial performance tests or other initial compliance demonstrations?

You must conduct the initial performance tests or other initial compliance demonstrations in Table 4 of this subpart that apply to you within 180 calendar days after the compliance date that is specified for your stationary combustion turbine in § 63.6095 and according to the provisions in § 63.7(a)(2).

§ 63.6115 When must I conduct subsequent performance tests?

If you are complying with the formaldehyde emission concentration limitation and your stationary combustion turbine is lean premix, this section applies to you. If you are not attaining low NO_X levels, as permitted by an enforcement agency, or if there are not permit levels and you are not attaining low NO_X levels characteristic of lean premix combustion (*e.g.*, NO_X levels guaranteed by the manufacturer), additional performance testing may be required by the enforcement agency.

§ 63.6120 What performance tests and other procedures must I use?

(a) You must conduct each performance test in Table 3 of this subpart that applies to you.

(b) For demonstrations of initial compliance with the emission limitation for carbon monoxide (CO) reduction, you must complete the actions described in paragraphs b(1) and (2) of this section.

(1) Normalize the CO concentrations at the inlet and outlet of the oxidation catalyst emission control device to a dry basis and to 15 percent oxygen or an equivalent percent carbon dioxide (CO_2).

(2) Calculate the percent reduction of CO using the following equation 1 of this section:

$$\frac{C_i - C_o}{C_i} \times 100 = R \qquad \text{Eq. 1}$$

Where:

C_i = CO concentration at inlet of the oxidation catalyst emission control device

C_o = CO concentration at the outlet of the oxidation catalyst emission control device

R = percent reduction in CO emissions.

(3) The initial demonstration of compliance consists of the first 4-hour average percent reduction in CO recorded after completion of the performance evaluation of the CEMS.

(c) Each performance test must be conducted according to the requirements of the General Provisions at § 63.7(e)(1) and under the specific conditions in Table 2 of this subpart.

(d) Do not conduct performance tests or compliance evaluations during periods of startup, shutdown, or malfunction.

(e) If you comply with the emission limit for formaldehyde emission concentration, you must conduct three separate test runs for each performance test, and each test run must last at least 1 hour.

(f) If you comply with the emission limitation for formaldehyde emission concentration and your stationary combustion turbine is not diffusion flame or lean premix, you must petition the Administrator for additional operating limitations to be established during the initial performance test and continuously monitored thereafter, or for approval of no additional operating limitations. You must not conduct the initial performance test until after the petition has been approved by the Administrator.

(g) If you comply with the emission limitation for formaldehyde emission concentration and your stationary combustion turbine is not diffusion flame or lean premix and you petition the Administrator for approval of additional operating limitations, your petition must include the following information described in paragraphs (g)(1) through (5) of this section.

(1) Identification of the specific parameters you propose to use as additional operating limitations;

(2) A discussion of the relationship between these parameters and HAP emissions, identifying how HAP emissions change with changes in these parameters and how limitations on these parameters will serve to limit HAP emissions;

(3) A discussion of how you will establish the upper and/or lower values for these parameters which will establish the limits on these parameters in the operating limitations;

(4) A discussion identifying the methods you will use to measure and the instruments you will use to monitor these parameters, as well as the relative accuracy and precision of these methods and instruments; and

(5) A discussion identifying the frequency and methods for recalibrating the instruments you will use for monitoring these parameters.

(h) If you comply with the emission limitation for formaldehyde emission concentration and you petition the Administrator for approval of no additional operating limitations, your petition must include the information described in paragraphs (h)(1) through (7) of this section.

(1) Identification of the parameters associated with operation of the stationary combustion turbine and any emission control device which could change intentionally (e.g, operator adjustment, automatic controller adjustment, etc.) or unintentionally (e.g., wear and tear, error, etc.) on a routine basis or over time;

(2) A discussion of the relationship, if any, between changes in the parameters and changes in HAP emissions;

(3) For the parameters which could change in such a way as to increase HAP emissions, a discussion of whether establishing limitations on the parameters would serve to limit HAP emissions;

(4) For the parameters which could change in such a way as to increase HAP emissions, a discussion of how you could establish upper and/or lower values for the parameters which would establish limits on the parameters in operating limitations;

(5) For the parameters, a discussion identifying the methods you could use to measure them and the instruments you could use to monitor them, as well as the relative accuracy and precision of the methods and instruments;

(6) For the parameters, a discussion identifying the frequency and methods for recalibrating the instruments you could use to monitor them; and

(7) A discussion of why, from your point of view, it is infeasible or unreasonable to adopt the parameters as operating limitations.

§ 63.6125 What are my monitor installation, operation, and maintenance requirements?

(a) If you comply with the emission limitation for CO reduction, you must install, operate, and maintain a CEMS to monitor CO and either oxygen or CO_2 at both the inlet and outlet of the oxidation catalyst emission control device according to the requirements described in paragraphs (a)(1) through (4) of this section.

(1) You must install, operate, and maintain each CEMS according to the applicable Performance Specification of 40 CFR part 60, appendix B (PS–4A).

(2) You must conduct a performance evaluation of each CEMS according to the requirements in 40 CFR 63.8 and according to the applicablePerformance Specification of 40 CFR part 60, appendix B.

(3) As specified in § 63.8(c)(4)(ii), each CEMS must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each consecutive 15-minute period. You must have at least two data points, each representing a different 15-minute period within the same hour to have a valid hour of data.

(4) Continuous emission monitoring system data must be reduced as specified in § 63.8(g)(2) and recorded in parts per million (ppm) CO at 15 percent oxygen or equivalent CO_2 concentration.

(b) If you have monitors that are subject to paragraph (a) of this section, you must properly maintain and operate the monitors continuously according to the requirements described in paragraphs (b)(1) and (2) of this section.

(1) Proper maintenance. You must maintain the monitoring equipment at all times that the turbine is operating, including but not limited to, maintaining necessary parts for routine repairs of the monitoring equipment.

(2) Continued operation. You must conduct all monitoring in continuous operation at all times that the combustion turbine is operating, except for, as applicable, monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments). Data recorded during monitoring malfunctions, associated repairs, out-of-control periods, and required quality assurance or control activities shall not be used for purposes of calculating data averages. You must use all of the data collected from all other periods in assessing compliance. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring equipment to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Any period for which the monitoring system is out-of-control and data are not available for required calculations constitutes a deviation from the monitoring requirements.

§ 63.6130 How do I demonstrate initial compliance with the emission limitations?

(a) You must demonstrate initial compliance with each emission and operating limitation that applies to you according to Table 4 of this subpart.

(b) You must submit the Notification of Compliance Status containing results of the initial compliance demonstration according to the requirements in § 63.6145(f).

Continuous Compliance Requirements

§ 63.6135 How do I monitor and collect data to demonstrate continuous compliance?

(a) Except for monitor malfunctions, associated repairs, and required quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments of the monitoring system), you must conduct all monitoring in continuous operation at all times the stationary combustion turbine is operating.

(b) Do not use data recorded during monitor malfunctions, associated repairs, and required quality assurance or quality control activities for meeting the requirements of this subpart, including data averages and calculations. You must use all the data collected during all other periods in assessing the performance of the control device or in assessing emissions from the new or reconstructed stationary combustion turbine.

§ 63.6140 How do I demonstrate continuous compliance with the emission and operating limitations?

(a) You must demonstrate continuous compliance with each emission limitation and operating limitation in Table 1 and Table 2 of this subpart according to methods specified in Table 5 and Table 6 of this subpart.

(b) You must report each instance in which you did not meet each emission limitation or operating limitation. You must also report each instance in which you did not meet the requirements in Table 8 of this subpart that apply to you. These instances are deviations from the emission and operating limitations in this subpart. These deviations must be reported according to the requirements in § 63.6150.

(c) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, and malfunction are not violations.

Notifications, Reports, and Records

§ 63.6145 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(e), 63.8(f)(4) and (6), and 63.9(b) and (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2), if you start up your combustion turbine before [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER], you must submit an Initial Notification not later than 120 calendar days after [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER].

(c) As specified in § 63.9(b), if you start up your new or reconstructed stationary combustion turbine on or after [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER], you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

(d) If you are required to submit an Initial Notification but are otherwise not affected by the requirements of this subpart, in accordance with § 63.6090(b), your notification should include the information in § 63.9(b)(2)(i) through (v) and a statement that your new or reconstructed stationary combustion turbine has no additional requirements and explain the basis of the exclusion (for example, that it operates exclusively as an emergency stationary combustion turbine).

(e) If you are required to conduct an initial performance test, you must submit a notification of intent to conduct an initial performance test at least 60 calendar days before the initial performance test is scheduled to begin as required in § 63.7(b)(1).

(f) If you are required to comply with either the emission limitation for CO reduction or the emission limitation for formaldehyde emission concentration, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii).

(1) For each initial compliance demonstration with the emission limitation for CO reduction, you must submit the Notification of Compliance Status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

(2) For each performance test required to demonstrate compliance with the emission limitation for formaldehyde emission concentration, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test.

§ 63.6150 What reports must I submit and when?

(a) Any one who owns or operates a new or reconstructed stationary combustion turbine which must meet the emission limitation for CO reduction must submit a semiannual compliance report according to Table 7 of this subpart by the date specified in paragraphs (a)(1) through (5) of this section unless the Administrator has approved a different schedule, according to the information described in paragraphs (a)(1) through (5) of this section.

(1) The first semiannual compliance report must cover the period beginning on the compliance date specified in § 63.6095 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date specified in § 63.6095.

(2) The first semiannual compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified in § 63.6095.

(3) Each subsequent semiannual compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent semiannual compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each new or reconstructed stationary combustion turbine that is subject to permitting regulations pursuant to 40 CFR part 70 or 71, and if the permitting authority has established the date for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (a)(1) through (4) of this section.

(b) The semiannual compliance report must contain the information described in paragraphs (b)(1) through (4) of this section.

(1) Company name and address.

(2) Statement by a responsible official, with that official's name, title, and signature, certifying the accuracy of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If there is no deviation from any emission limitation that applies to you, a statement that there was no deviation from the emission limitations during the reporting period and that no CEMS was inoperative, inactive, malfunctioning, out of control, repaired, or adjusted.

(c) For each deviation from an emission limitation that occurs where you are not using a CEMS to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (b)(1) through (3) of this section and the information contained in paragraphs (c)(1) through (3) of this section.

(1) The total operating time of each new or reconstructed combustion turbine during the reporting period.

(2) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(3) Information on the number, duration, and cause for monitor downtime incidents (including unknown cause, if applicable, other than downtime associated with zero and span and other daily calibration checks).

(d) For each deviation from an emission limitation occurring where you are using a CEMS to comply with an emission limitation, you must include the information in paragraphs (c)(1) through (3) of this section and the information included in paragraphs (d)(1) through (11) of this section.

(1) The date and time that each deviation started and stopped.

(2) The date and time that each CEMS was inoperative except for zero (low-level) and high-level checks.

(3) The date and time that each CEMS was out-of-control including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown or malfunction or during another period.

(5) A summary of the total duration of the deviation during the reporting period (recorded in 4-hour periods), and the total duration as a percent of the total operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CEMS downtime during the reporting period (reported in 4-hour periods), and the total duration of CEMS downtime as a percent of the total turbine operating time during that reporting period.

(8) A breakdown of the total duration of CEMS downtime during the reporting period into periods that are due to monitoring equipment malfunctions, non-monitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes and other unknown causes.

(9) The monitoring equipment manufacturer(s) and model number(s) of each monitor.

(10) The date of the latest CEMS certification or audit.

(11) A description of any changes in CEMS or controls since the last reporting period.

§ 63.6155 What records must I keep?

(a) You must keep the records as described in paragraphs (a)(1) through (5) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) Records of performance tests and performance evaluations as required in § 63.10(b)(2)(viii).

(3) Records of the occurrence and duration of each startup, shutdown, or malfunction as required in § 63.10(b)(2)(i).

(4) Records of the occurrence and duration of each malfunction of the air pollution control equipment, if applicable, as required in § 63.10(b)(2)(ii).

(5) Records of all maintenance on the air pollution control equipment as required in § 63.10(b)(iii).

(b) For each CEMS, you must keep the records as described in paragraphs (b)(1) through (3) of this section.

(1) Records described in § 63.10(b)(2)(vi) through (xi).

(2) Previous (*i.e.*, superceded) versions of the performance evaluation plan as required in § 63.8(d)(3).

(3) Request for alternatives to the relative accuracy test for CEMS as required in § 63.8(f)(6)(i), if applicable.

(c) You must keep the records required in Tables 5 and 6 of this subpart to show continuous compliance with each emission limitation and operating limitation that applies to you.

§ 63.6160 In what form and how long must I keep my records?

(a) You must maintain all applicable records in such a manner that they can be readily accessed and are suitable for inspection according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must retain your records of the most recent 2 years on site or your records must be accessible on site. Your records of the remaining 3 years may be retained off site.

Other Requirements and Information

§ 63.6165 What parts of the General Provisions apply to me?

Table 8 of this subpart shows which parts of the General Provisions in § 63.1 through 13 apply to you.

§ 63.6170 Who implements and enforces this subpart?

(a) This subpart is implemented and enforced by the U.S. EPA or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency (as well as the U.S. EPA) has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out whether this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are:

(1) Approval of alternatives to the emission limitations or operating limitations in § 63.6100 under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.6175 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA; in 40 CFR 63.2, the General Provisions of this part; and in this section:

Area source means any stationary source of HAP that is not a major source as defined in this part.

Associated equipment as used in this subpart and as referred to in section 112(n)(4) of the CAA, means equipment associated with an oil or natural gas exploration or production well, and includes all equipment from the well bore to the point of custody transfer, except glycol dehydration units, storage vessels with potential for flash emissions, combustion turbines, and stationary reciprocating internal combustion engines.

CAA means the Clean Air Act (42 U.S.C. 7401 *et seq.*, as amended by Public Law 101–549, 104 Stat. 2399).

Cogeneration cycle stationary combustion turbine means any stationary combustion turbine that recovers heat from the stationary combustion turbine exhaust gases using an exhaust heat exchanger, such as a heat recovery steam generator.

Combined cycle stationary combustion turbine means any stationary combustion turbine that recovers heat from the stationary combustion turbine exhaust gases using an exhaust heat exchanger to generate steam for use in a steam turbine.

Combustion turbine engine test cells/stands means engine test cells/stands, as defined in subpart PPPPP of this part, that test stationary combustion turbines.

Custody transfer means the transfer of hydrocarbon liquids or natural gas: after processing and/or treatment in the producing operations, or from storage vessels or automatic transfer facilities or other such equipment, including product loading racks, to pipelines or any other forms of transportation. For the purposes of this subpart, the point at which such liquids or natural gas enters a natural gas processing plant is a point of custody transfer.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation or operating limitation;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation or operating limitation in this subpart during malfunction, regardless or whether or not such failure is permitted by this subpart.

Diffusion flame stationary combustion turbine means any stationary combustion turbine where fuel and air are injected at the combustor and are mixed only by diffusion prior to ignition.

Digester gas means any gaseous by-product of wastewater treatment formed through the anaerobic decomposition of organic waste materials and composed principally of methane and CO_2.

Emergency stationary combustion turbine means any stationary combustion turbine that operates as a mechanical or electrical power source when the primary source of power is interrupted by an emergency situation. Examples include stationary combustion turbines used to produce power for critical networks or equipment when electric power from the local utility is interrupted, or stationary combustion turbines used to pump water in the case of fire or flood, etc. Emergency stationary combustion turbines do not include stationary combustion turbines used as peaking units at electric utilities or stationary combustion turbines at industrial facilities that typically operate at low capacity factors.

Hazardous air pollutant (HAP) means any air pollutant listed in or pursuant to section 112(b) of the CAA.

ISO standard day conditions means 288 degrees Kelvin (15 °C), 60 percent relative humidity and 101.3 kilopascals pressure.

Landfill gas means a gaseous by-product of the land application of municipal refuse formed through the anaerobic decomposition of waste materials and composed principally of methane and CO_2.

Lean premix stationary combustion turbine means any stationary combustion turbine where the air and fuel are thoroughly mixed to form a lean mixture before delivery to the combustor.

Limited use stationary combustion turbine means any stationary combustion turbine which is operated 50 hours or less per calendar year.

Major Source, as used in this subpart, shall have the same meaning as in § 63.2, except that:

(1) Emissions from any oil or gas exploration or production well (with its associated equipment (as defined in this section)) and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units, to determine whether such emission points or stations are major sources, even when emission points are in a contiguous area or under common control except when they are on the same surface site;

(2) For oil and gas production facilities, emissions from processes, operations, or equipment that are not part of the same oil and gas production facility, as defined in this section, shall not be aggregated; and

(3) For production field facilities, only HAP emissions from glycol dehydration units, storage tanks with flash emissions potential, combustion turbines and reciprocating internal combustion engines shall be aggregated for a major source determination.

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

Oil and gas production facility as used in this subpart means any grouping of equipment where hydrocarbon liquids are processed, upgraded (*i.e.*, remove impurities or other constituents to meet contract specifications), or stored prior to the point of custody transfer; or where natural gas is processed, upgraded, or stored prior to entering the natural gas transmission and storage source category. For purposes of a major source determination, facility (including a building, structure, or installation) means oil and natural gas production and processing equipment that is located within the boundaries of an individual surface site as defined in this section. Equipment that is part of a facility will typically be located within close proximity to other equipment located at the same facility. Pieces of production equipment or groupings of equipment located on different oil and gas leases, mineral fee tracts, lease tracts, subsurface or surface unit areas,

surface fee tracts, surface lease tracts, or separate surface sites, whether or not connected by a road, waterway, power line or pipeline, shall not be considered part of the same facility. Examples of facilities in the oil and natural gas production source category include, but are not limited to, well sites, satellite tank batteries, central tank batteries, a compressor station that transports natural gas to a natural gas processing plant, and natural gas processing plants.

Oxidation catalyst emission control device means an emission control device that incorporates catalytic oxidation to reduce CO emissions.

Potential to emit means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable.

Production field facility means those oil and gas production facilities located prior to the point of custody transfer.

Regenerative/recuperative cycle stationary combustion turbine means any stationary combustion turbine that recovers heat from the stationary combustion turbine exhaust gases using an exhaust heat exchanger to preheat the combustion air entering the combustion chamber of the stationary combustion turbine.

Simple cycle stationary combustion turbine means any stationary combustion turbine that does not recover heat from the stationary combustion turbine exhaust gases.

Surface site means any combination of one or more graded pad sites, gravel pad sites, foundations, platforms, or the immediate physical location upon which equipment is physically affixed.

Tables to Subpart YYYY of Part 63

As stated in §§ 63.6100 and 63.6140, you must comply with the following emission limitations:

TABLE 1 TO SUBPART YYYY OF PART 63.—EMISSION LIMITATIONS

For . . .	You must meet one of the following emission limitations . . .
1. each stationary combustion turbine described in § 63.6100	a. achieve a reduction in CO of 95 percent or greater, measured before and after an oxidation catalyst emission control device is installed to treat all of the stationary combustion turbine exhaust gases, if you install an oxidation catalyst emission control device or b. limit the concentration of formaldehyde to 43 ppbvd or less at 15 percent O_2, if you do not install an oxidation catalyst emission control device.

As stated in §§ 63.6100 and 63.6140, you must comply with the following operating limitations:

TABLE 2 TO SUBPART YYYY OF PART 63.—OPERATING LIMITATIONS

For . . .	You must . . .
1. Each stationary combustion turbine complying with the emission limitation for CO reduction.	Meet no operating limitations.
2. Each stationary combustion turbine complying with the emission limitation for formaldehyde emission concentration that is diffusion flame or lean premix.	Meet no operating limitations.
3. Each stationary combustion turbine complying with the emission limitation for formaldehyde emission concentration that is not diffusion flame or lean premix.	You must comply with any additional operating limitations approved by the Administrator.

As stated in § 63.6120, you must comply with the following requirements for performance tests and initial compliance demonstrations:

TABLE 3 OF SUBPART YYYY OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS AND INITIAL COMPLIANCE DEMONSTRATIONS

For each stationary combustion turbine complying with . . .	You must . .	Using . . .	According to the following requirements . . .
1. The emission limitation for CO reduction.	Demonstrate a reduction in CO of 95 percent or more.	A CEMS for CO and either O_2 or CO_2 to monitor at both the inlet and outlet of the oxidation catalyst emission control device.	This demonstration is conducted immediately following a successful performance evaluation of the CEMS as required in § 63.6125(a). The demonstration consists of the first 4-hour average of measurements. The reduction in CO is calculated using the equation in § 63.6120 and must be normalized to 15 percent O_2 or equivalent percent CO_2.

TABLE 3 OF SUBPART YYYY OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS AND INITIAL COMPLIANCE DEMONSTRATIONS—Continued

For each stationary combustion turbine complying with . . .	You must . .	Using . . .	According to the following requirements . . .
2. The emission limitation for formaldehyde emission concentration.	a. Demonstrate formaldehyde emissions are 43 ppbvd or less by a performance test and.	i. Test Method 320 of 40 CFR part 63, appendix A; or EPA SW–846 Method 0011; or California Environmental Protection Agency, Air Resources Board, Method 430* formaldehyde and acetaldehyde in emissions from stationary sources, adopted Sept 12, 1989, amended December 13, 1991 (ARB Method 430)*; or if your affected source fires natural gas, Test Method 323 of 40 CFR part 63, appendix A; or other methods approved by the Administrator.	(1) Formaldehyde concentration must be corrected to 15 percent O_2, dry basis. Results of this test consist of the average of the three 1 hour runs.
	b. Select the sampling port location and the number of traverse points and.	i. Method 1 or 1A of 40 CFR part 60, appendix A § 63.7(d)(1)(i).	(1) If using an air pollution control device, the sampling site must be located at the outlet of the air pollution control device.
	c. Determine the O_2 concentration at the sampling port location.	i. Method 3A or 3B of 40 CFR part 60, appendix A.	(1) Measurements to determine O_2 concentration must be made at the same time as the performance test.

*You may obtain a copy of ARB Method 430 from the California Environmental Protection Agency, Air Resources Board, 2020 L Street, Sacramento, CA 95812, or you may download a copy of ARB Method 430 from ARB's web site (http://www.arb.ca.gov/testmeth/vol3/vol3.htm).

As stated in §§ 63.6110 and 63.6130, you must comply with the following requirements to demonstrate initial compliance with emission limitations:

TABLE 4 TO SUBPART YYYY OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS

For the . . .	You have demonstrated initial compliance if . . .
1. Emission limitation for CO reduction	The average reduction of CO emissions is at least 95 percent, dry basis.
2. Emission limitation for formaldehyde	The average formaldehyde concentration is 43 ppbvd or less at 15 percent O_2.

As stated in §§ 63.6135 and 63.6140, you must comply with the following requirements to demonstrate continuing compliance with emissions limitations:

TABLE 5 OF SUBPART YYYY OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS

For the . . .	You must demonstrate continous compliance by . . .
1. Emission limitation for CO reduction	a. Collecting the CEMS data according to § 63.6125(a), reducing the measurements to 1-hour averages, calculating the percent reduction in CO emissions according to § 63.6120; and b. Demonstrating a reduction in CO of 95 percent or more over each 4-hour averaging period; and c. Applying 40 CFR part 60 appendix F, procedure 1.

As stated in §§ 63.6135 and 63.6140, you must comply with the following requirements to demonstrate continuing compliance with operating limitations:

TABLE 6 OF SUBPART YYYY OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITATIONS

For the emission limitation . . .	For the operating limitation . . .	You must demonstrate continuous compliance by . . .
For formaldehyde	To comply with operating limitations approved by the Administrator.	Collect the data according to § 63.6120(g) and maintain the operating parameters within the operating limits.

As stated in §§ 63.6145 and 63.6150, you must comply with the following requirements for reports:

TABLE 7 OF SUBPART YYYY OF PART 63.—REQUIREMENTS FOR REPORTS

If you own or operate a stationary combustion turbine which must comply with the CO emission reduction limitation, you must submit a . . .		
Semiannual compliance report	If there is no deviation from any emission limitation or operating limitation, a statement that you have had no deviation from the emission limitation or operating limitation during the reporting period and that no CEMS or CPMS was inoperative, inactive, out-of-control, repaired, or adjusted. If you had a deviation from any emission limitation or operating limitation during the reporting period, the report must contain the information in §63.6150(d) or (e), as applicable.	Semiannually, according to the requirements in §63,6150.

You must comply with the applicable General Provisions requirements:

TABLE 8 OF SUBPART YYYY OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART YYYY

Citation	Subject	Applies to subpart YYYY	Explanation
§63.1(a)(1)	General applicability of the General Provisions.	Yes	Additional terms defined in §63.6175.
§63.1(a)(2)–(4)		Yes..	
§63.1(a)(5)	[Reserved].		
§63.1(a)(6)–(7)	Contact for source category information; extension of compliance through early reduction.	Yes.	
§63.1(a)(8)		No	Refers to State programs.
§63.1(a)(9)	[Reserved].		
§63.1(a)(10)–(14)		Yes..	
§63.1(b)(1)	Initial applicability	Yes	Subpart YYYY clarifies applicability at §63.6085.
§63.1(b)(2)	Title V operating permit-reference to part 70	Yes	All major affected sources are required to obtain a title V permit.
§63.1(b)(3)	Record of applicability determination	Yes.	
§63.1(c)(1)	Applicability after standards are set	Yes	Subpart YYYY clarifies the applicability of each paragraph of subpart A to sources subject to subpart YYYY.
§63.1(c)(2)	Title V permit requirement for sources	No	Area sources are not subject to area subpart YYYY.
§63.1(c)(3)	[Reserved].		
§63.1(c)(4)	Extension of compliance for existing sources	Yes.	
§63.1(c)(5)	Notification requirements for an area source becoming a major source.	Yes	
§63.1(d)	[Reserved].		
§63.1(e)	Applicability of permit program before a relevant standard has been set.	Yes.	
§63.2	Definitions	Yes	Additional terms defined in §63.6175.
§63.3	Units and abbreviations	Yes.	
§63.4	Prohibited activities	Yes.	
§63.5(a)	Construction and reconstruction applicability	Yes.	

TABLE 8 OF SUBPART YYYY OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART YYYY—Continued

Citation	Subject	Applies to subpart YYYY	Explanation
§ 63.5(b)(1)	Requirements upon construction or reconstruction.	Yes.	
§ 63.5(b)(2)	[Reserved].		
§ 63.5(b)(3)	Approval of construction	Yes.	
§ 63.5(b)(4)	Notification of construction	Yes.	
§ 63.5(b)(5)	Compliance	Yes.	
§ 63.5(b)(6)	Addition of equipment	Yes.	
§ 63.5(c)	[Reserved].		
§ 63.5(d)	Application for construction reconstruction	Yes.	
§ 63.5(e)	Approval of construction or reconstruction	Yes.	
§ 63.5(f)	Approval of construction or reconstruction based on prior State review.	Yes.	
§ 63.6(a)	Applicability	Yes.	
§ 63.6(b)(1)–(2)	Compliance dates for new and reconstructed sources.	Yes.	
§ 63.6(b)(3)	Compliance dates for sources constructed or reconstructed before effective date.	No	Compliance is required by startup or effective date.
§ 63.6(b)(4)	Compliance dates for sources also subject to § 112(f) standards.	Yes.	
§ 63.6(b)(5)	Notification	Yes.	
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance dates for new and reconstructed area sources that become major.	Yes.	
§ 63.6(c)(1)–(2)	Compliance dates for existing sources	Yes.	
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance dates for existing area sources that become major.	Yes.	
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)–(2)	Operation and maintenance	Yes	Except that you are not required to have a startup, shutdown, and malfunction plan (SSMP).
§ 63.6(e)(3)	SSMP	No.	
§ 63.6(f)(1)	Applicability of standards except during start-up, shutdown, or malfunction (SSM).	Yes.	
§ 63.6(f)(2)	Methods for determining compliance	Yes.	
§ 63.6(f)(3)	Finding of compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of alternative standard	Yes.	
§ 63.6(h)	Opacity and visible emission standards	No	Subpart YYYY does not contain opacity or visible emission standards.
§ 63.6(i)	Compliance extension procedures and criteria	Yes.	
§ 63.6(j)	Presidential compliance exemption	Yes.	

TABLE 8 OF SUBPART YYYY OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART YYYY—Continued

Citation	Subject	Applies to subpart YYYY	Explanation
§ 63.7(a)(1)–(2)	Performance test dates	Yes	Subpart YYYY contains performance test dates at § 63.6110.
§ 63.7(a)(3)	Section 114 authority	Yes.	
§ 63.7(b)(1)	Notification of performance test	Yes.	
§ 63.7(b)(2)	Notification of rescheduling	Yes.	
§ 63.7(c)	Quality assurance/test plan	Yes.	
§ 63.7(d)	Testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests	Yes.	
§ 63.7(e)(2)	Conduct of performance tests and reduction of data.	Yes	Subpart YYYY specifies test methods at § 63.6120.
§ 63.7(e)(3)	Test run duration	Yes.	
§ 63.7(e)(4)	Administrator may require other testing under section 114 of the CAA.	Yes.	
§ 63.7(f)	Alternative test method provisions	Yes.	
§ 63.7(g)	Performance test data analysis, record-keeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of tests	Yes.	
§ 63.8(a)(1)	Applicability of monitoring requirements	Yes	Subpart YYYY contains specific requirements for monitoring at § 63.6125.
§ 63.8(a)(2)	Performance specifications	Yes.	
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring with flares	No.	
§ 63.8(b)(1)	Monitoring	Yes.	
§ 63.8(b)(2)–(3)	Multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)	Monitoring system operation and maintenance.		
§ 63.8(c)(1)(i)	Routine and predictable SSM	No	Subpart YYYY does not require SSMP.
§ 63.8(c)(1)(ii)	SSM not in SSMP	No	Subpart YYYY does not require SSMP.
§ 63.8(c)(1)(iii)	Compliance with operation and maintenance requirements.	Yes.	
§ 63.8(c)(2)–(3)	Monitoring system installation	Yes.	
§ 63.8(c)(4)	Continuous monitoring system (CMS) requirements.	Yes	Except that subpart YYYY does not require continuous opacity monitoring systems (COMS).
§ 63.8(c)(5)	COMS minimum procedures	No.	
§ 63.8(c)(6)–(8)	CMS requirements	Yes	Except that subpart YYYY does not require COMS.
§ 63.8(d)	CMS quality control	Yes.	
§ 63.8(e)	CMS performance evaluation	Yes	Except for § 63.8(e)(5)(ii), which applies to COMS.
§ 63.8(f)(1)–(5)	Alternative monitoring method	Yes.	

TABLE 8 OF SUBPART YYYY OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART YYYY—Continued

Citation	Subject	Applies to subpart YYYY	Explanation
§ 63.8(f)(6)	Alternative to relative accuracy test	Yes.	
§ 63.8(g)	Data reduction	Yes	Except that provisions for COMS are not applicable. Averaging periods for demonstrating compliance are specified at §§ 63.6135 and 63.6140.
§ 63.9(a)	Applicability and State delegation of notification requirements.	Yes.	
§ 63.9(b)(1)–(5)	Initial notifications	Yes.	
§ 63.9(c)	Request for compliance extension	No	Compliance extensions do not apply to new or reconstructed sources.
§ 63.9(d)	Notification of special compliance requirements for new sources.	Yes.	
§ 63.9(e)	Notification of performance test	Yes.	
§ 63.9(f)	Notification of visible emissions/opacity test	No.	
§ 63.9(g)(1)	Notification of performance evaluation	Yes.	
§ 63.9(g)(2)	Notification of use of COMS data	No	Subpart YYYY does not contain opacity or VE standards.
§ 63.9(g)(3)	Notification that criterion for alternative to relative accuracy test audit (RATA) is exceeded.	Yes	If alternative is in use.
§ 63.9(h)(1)–(6)	Notification of compliance status	Yes	Except that notifications for sources not conducting performance tests are due 30 days after completion of performance evaluations.
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in previous information	Yes.	
§ 63.10(a)	Administrative provisions for recordkeeping and reporting.	Yes.	
§ 63.10(b)(1)	Record retention	Yes.	
§ 63.10(b)(2)(i)–(iii)	Records related to SSM	Yes.	
§ 63.10(b)(2)(iv)–(v)	Records related to actions during SSM	No	Subpart YYYY does not require SSMP so requirements to demonstrate conformance or nonconformance with SSMP are not applicable.
§ 63.10(b)(2)(vi)–(xi)	CMS records	Yes.	
§ 63.10(b)(2)(xii)	Record when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to RATA	Yes	For CO standard if using RATA alternative.
§ 63.10(b)(2)(xiv)	Records of supporting documentation	Yes.	
§ 63.10(b)(3)	Records of applicability determination	Yes.	
§ 63.10(c)(1)	Additional records for sources using CEMS	Yes.	
§ 63.10(d)(1)	General reporting requirements	Yes.	
§ 63.10(d)(2)	Report of performance test results	Yes.	
§ 63.10(d)(3)	Reporting opacity or VE observations	No	Subpart YYYY does not contain opacity or VE standards.

TABLE 8 OF SUBPART YYYY OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART YYYY—Continued

Citation	Subject	Applies to subpart YYYY	Explanation
§ 63.10(d)(4)	Progress reports	No	Compliance extensions do not apply to new or reconstructed sources.
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports	No	Subpart YYYY does not require reporting of startup, shutdowns, or malfunctions.
§ 63.10(e)(1) and (2)(i)	Additional CMS reports	Yes.	
§ 63.10(e)(2)(ii)	COMS-related report	No	Subpart YYYY does not require COMS.
§ 63.10(e)(3)	Excess emissions and parameter exceedances reports.	Yes.	
§ 63.10(e)(4)	Reporting COMS data	No	Subpart YYYY does not require COMS.
§ 63.10(f)	Waiver for recordkeeping and reporting	Yes.	
§ 63.11	Flares	No.	
§ 63.12	State authority and delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by reference	Yes.	
§ 63.15	Availability of information	Yes.	

3. Appendix A to Part 63 is proposed to be amended by adding, in numerical order, Method 323 to read as follows:

Appendix A to Part 63—Test Methods

* * * * *

Method 323—Measurement of Formaldehyde Emissions from Natural Gas-Fired Stationary Sources—Acetyl Acetone Derivitization Method

1.0 Introduction

This method describes the sampling and analysis procedures of the acetyl acetone colorimetric method for measuring formaldehyde emissions in the exhaust of natural gas-fired, stationary combustion sources. This method, which was prepared by the Gas Research Institute (GRI), is based on the Chilled Impinger Train Method for Methanol, Acetone, Acetaldehyde, Methyl Ethyl Ketone, and Formaldehyde (Technical Bulletin No. 684) developed and published by the National Council of the Paper Industry for Air and Stream Improvement, Inc. (NCASI).[1] However, this method has been prepared specifically for formaldehyde and does not include specifications (*e.g.*, equipment and supplies) and procedures (*e.g.*, sampling and analytical) for methanol, acetone, acetaldehyde, and methyl ethyl ketone. To obtain reliable results, persons using this method should have a thorough knowledge of at least Methods 1, 2, 3, and 4 of 40 CFR part 60, appendix A.

1.1 Scope and Application

1.1.1 *Analytes.* The only analyte measured by this method is formaldehyde (CAS Number 50–00–0).

1.1.2 *Applicability.* This method is for analyzing formaldehyde emissions from uncontrolled and controlled natural gas-fired, stationary combustion sources.

1.1.3 *Data Quality Objectives.* If you adhere to the quality control and quality assurance requirements of this method, then you and future users of your data will be able to assess the quality of the data you obtain and estimate the uncertainty in the measurements.

2.0 Summary of Method

An emission sample from the combustion exhaust is drawn through a midget impinger train containing chilled reagent water to absorb formaldehyde. The formaldehyde concentration in the impinger is determined by reaction with acetyl acetone to form a colored derivative which is measured colorimetrically.

3.0 Definitions

[Reserved]

4.0 Interferences

The presence of acetaldehyde, amines, polymers of formaldehyde, periodate, and sulfites can cause interferences with the acetyl acetone procedure which is used to determine the formaldehyde concentration. However, based on experience gained from extensive testing of natural gas-fired combustion sources using FTIR to measure a variety of compounds, GRI expects only acetaldehyde to be potentially present when combusting natural gas. Acetaldehyde has been reported to be a significant interferent only when present at concentrations above 50 ppm.[4] However, GRI reports that the concentration of acetaldehyde from gas-fired sources is very low (typically below the FTIR detection limit of around 0.5 ppmv); therefore, the potential positive bias due to acetaldehyde interference is expected to be negligible.

5.0 Safety

5.1 Prior to applying the method in the field, a site-specific Health and Safety Plan should be prepared. General safety precautions include the use of steel-toed boots, safety glasses, hard hats, and work gloves. In certain cases, facility policy may require the use of fire-resistant clothing while on-site. Since the method involves testing at high-temperature sampling locations, precautions must be taken to limit the potential for exposure to high-temperature gases and surfaces while inserting or removing the sample probe. In warm locations, precautions must also be taken to avoid dehydration.

5.2 Potential chemical hazards associated with sampling include formaldehyde, nitrogen oxides (NO_X), and carbon monoxide (CO). Formalin solution, used for field spiking, is an aqueous solution containing formaldehyde and methanol. Formaldehyde is a skin, eye, and respiratory irritant and a carcinogen, and should be handled accordingly. Eye and skin contact and inhalation of formaldehyde vapors should be avoided.

Natural gas-fired combustion sources can potentially emit CO at toxic concentrations. Care should be taken to minimize exposure to the sample gas while inserting or removing the sample probe. If the work area is enclosed, personal CO monitors should be used to insure that the concentration of CO in the work area is maintained at safe levels.

5.3 Potential chemical hazards associated with the analytical procedures include acetyl acetone and glacial acetic acid. Acetyl acetone is an irritant to the skin and respiratory system, as well as being moderately toxic. Glacial acetic acid is highly

corrosive and is an irritant to the skin, eyes, and respiratory system. Eye and skin contact and inhalation of vapors should be avoided. Acetyl acetone and glacial acetic acid have flash points of 41°C (105.8°F) and 43°C (109.4°F), respectively. Exposure to heat or flame should be avoided.

6.0 Equipment and Supplies

6.1 *Sampling Probe.* Quartz glass probe with stainless steel sheath or stainless steel probe.

6.2 *Teflon Tubing.* Teflon tubing to connect the sample probe to the impinger train. A heated sample line is not needed since the sample transfer system is rinsed to recover condensed formaldehyde and the rinsate combined with the impinger contents prior to sample analysis.

6.3 *Midget Impingers.* Three midget impingers are required for sample collection. The first impinger serves as a moisture knockout, the second impinger contains 20 mL of reagent water, and the third impinger contains silica gel to remove residual moisture from the sample prior to the dry gas meter.

6.4 *Vacuum Pump.* Vacuum pump capable of delivering a controlled extraction flow rate between 0.2 and 0.4 L/min.

6.5 *Flow Measurement Device.* A rotameter or other flow measurement device to indicate consistent sample flow.

6.6 *Dry Gas Meter.* A dry gas meter is used to measure the total sample volume collected. The dry gas meter must be sufficiently accurate to measure the sample volume to within 2 percent, calibrated at the selected flow rate and conditions actually encountered during sampling, and equipped with a temperature sensor (dial thermometer, or equivalent) capable of measuring temperature accurately to within 3 °C (5.4 °F).

6.7 *Spectrophotometer.* A spectrophotometer is required for formaldehyde analysis, and must be capable of measuring absorbance at 412 nm.

7.0 Reagents and Standards

7.1 Sampling Reagents

7.1.1 *Reagent water.* Deionized, distilled, organic-free water. This water is used as the capture solution, for rinsing the sample probe, sample line, and impingers at the completion of the sampling run, in reagent dilutions, and in blanks.

7.1.2 *Ice.* Ice is necessary to pack around the impingers during sampling in order to keep the impingers cold. Ice is also needed for sample transport and storage.

7.2 Analysis

7.2.1 *Acetyl acetone Reagent.* Prepare the acetyl acetone reagent by dissolving 15.4 g of ammonium acetate in 50 mL of reagent water in a 100-mL volumetric flask. To this solution, add 0.20 mL of acetyl acetone and 0.30 mL of glacial acetic acid. Mix the solution thoroughly, then dilute to 100 mL with reagent water. The solution can be stored in a brown glass bottle in the refrigerator, and is stable for at least two weeks.

7.2.2 *Formaldehyde.* Reagent grade.

7.2.3 *Ammonium Acetate.*

7.2.4 *Glacial Acetic Acid.*

8.0 Sample Collection, Preservation, Storage, and Transport

8.1 Pre-test

8.1.1 Collect information about the site characteristics such as exhaust pipe diameter, gas flow rates, port location, access to ports, and safety requirements during a pre-test site survey. You should then decide the sample collection period per run and the target sample flow rate based on your best estimate of the formaldehyde concentration likely to be present. You want to assure that sufficient formaldehyde is captured in the impinger solution so that it can be measured precisely by the spectrophotometer. You may use Equation 323–1 to design your test program. As a guideline for optimum performance, if you can, design your test so that the liquid concentration (C_l)is approximately 10 times the assumed spectrophotometer detection limit of 0.2 ppmw. However, since actual detection limits are instrument specific, we also suggest that you confirm that the laboratory equipment can meet or exceed this detection limit.

8.1.2 Prepare and then weigh the midget impingers prior to configuring the sampling train. The first impinger is initially dry. The second impinger contains 20 mL of reagent water, and the third impinger contains silica gel that is added before weighing the impinger. Each prepared impinger is weighed and the pre-sampling weight is recorded to the nearest 0.5 gm.

8.1.3 Assemble the sampling train (see Figure 1). Ice is packed around the impingers in order to keep them cold during sample collection. A small amount of water may be added to the ice to improve thermal transfer.

8.1.4 Perform a sampling system leak-check (from the probe tip to the pump outlet) as follows: Connect a rotameter to the outlet of the pump. Close off the inlet to the probe and observe the leak rate. The leak rate must be less than 2 percent of the planned sampling rate of 0.2 or 0.4 L/min.

8.1.5 Source gas temperature and static pressure should also be considered prior to field sampling to ensure adequate safety precautions during sampling.

8.2 Sample Collection

8.2.1 Set the sample flow rate between 0.2—0.4 L/min, depending upon the anticipated concentration of formaldehyde in the engine exhaust. (You may have to refer to published data[5 6] for anticipated concentration levels.) If no information is available for the anticipated levels of formaldehyde, use the higher sampling rate of 0.4 L/min.

8.2.2 Record the sampling flow rate every 5–10 minutes during the sample collection period.

8.2.3 Monitor the amount of ice surrounding the impingers and add ice as necessary to maintain the proper impinger temperature. Remove excess water as needed to maintain an adequate amount of ice.

8.2.4 Record measured leak rate, beginning and ending times and dry gas meter readings for each sampling run, impinger weights before and after sampling, and sampling flow rates and dry gas meter exhaust temperature every 5–10 minutes during the run, in a signed and dated notebook.

8.2.5 If possible, monitor and record the fuel flow rate to the engine and the exhaust oxygen concentration during the sampling period. This data can be used to estimate the engine exhaust flow rate based on the Method 19 approach. This approach, if accurate fuel flow rates can be determined, is preferred for reciprocating IC engine exhaust flow rate estimation due to the pulsating nature of the engine exhaust. The F-Factor procedures described in Method 19 may be used based on measurement of fuel flow rate and exhaust oxygen concentration. One example equation is Equation 323–2.

8.3 *Post-test.* Perform a sampling system leak-check (from the probe tip to pump outlet). Connect a rotameter to the outlet of the pump. Close off the inlet to the probe and observe the leak rate. The leak rate must be less than 2 percent of the sampling rate. Weigh and record each impinger immediately after sampling to determine the moisture weight gain. The impinger weights are measured before transferring the impinger contents, and before rinsing the sample probe and sample line. The moisture content of the exhaust gas is determined by measuring the weight gain of the impinger solutions and volume of gas sampled as described in Method 4. Rinse the sample probe and sample line with reagent water. Transfer the impinger catch to an amber 40-mL VOA bottle with a Teflon-lined cap. If there is a small amount of liquid in the dropout impinger (<10 mL), the impinger catches can be combined in one 40 mL VOA bottle. If there is a larger amount of liquid in the dropout impinger, use a larger VOA bottle to combine the impinger catches. Rinse the impingers and combine the rinsate from the sample probe, sample line, and impingers with the impinger catch. In general, combined rinse volumes should not exceed 10 mL. The volume of the rinses during sample recovery should not be excessive as this may result in your having to use a larger VOA bottle. This in turn would raise the detection limit of the method since after combining the rinses with the impinger catches in the VOA bottle, the bottle should be filled with reagent water to eliminate the headspace in the sample vial. Keep the sample bottles over ice until analyzed on-site or received at the laboratory. Samples should be analyzed as soon as possible to minimize possible sample degradation. Based on a limited number of previous analyses, samples held in refrigerated conditions showed some sample degradation over time.

8.4 Quality Control Samples

8.4.1 *Field Duplicates.* During at least one run, a pair of samples should be collected concurrently and analyzed as separate samples. Results of the field duplicate samples should be identified and reported with the sample results. The percent difference in exhaust (stack) concentration indicated by field duplicates should be within 20 percent of their mean concentration. Data are to be flagged as suspect if the duplicates do not meet the acceptance criteria.

8.4.2 *Spiked Samples.* An aliquot of one sample from each source sample set should be spiked at 2 to 3 times the formaldehyde level found in the unspiked sample. It is also recommended that a second aliquot of the same sample be spiked at around half the level of the first spike; however, the second spike is not mandatory. The results are acceptable if the measured spike recovery is 80 to 120 percent. Use Equation 323–4. Data are to be flagged as suspect if the spike recovery do not meet the acceptance criteria.

8.4.3 Field Blank. A field blank consisting of reagent water placed in a clean impinger train, taken to the test site but not sampled, then recovered and analyzed in the same manner as the other samples, should be collected with each set of source samples. The field blank results should be less than 50 percent of the lowest calibration standard used in the sample analysis. If this criteria is not met, the data should be flagged as suspect.

9.0 Quality Control

QA/QC Specification	Acceptance criteria	Frequency	Corrective action
Leak-check—Sections 8.1.4, 8.3	<2% of Sampling rate	Pre- and Post-sampling	Pre-sampling: Repair leak and re-check Post-sampling: Flag data and repeat run if for regulatory compliance.
Sample flow rate	Between 0.2 and 0.4 L/min	Throughout sampling	Adjust.
VOA vial headspace	No headspace	After sample recovery	Flag data.
Sample preservation	Maintain on ice	After sample recovery	Flag data.
Sample hold time	14 day maximum	After sample recovery	Flag data.
Field Duplicates—Section 8.4.1	Within 20% of mean of original and duplicate sample.	One duplicate per source sample set.	Flag data.
Spiked Sample—Section 8.4.2	Recovery between 80 and 120%	One spike per source sample set	Flag data.
Field Blank—Section 8.4.3	<50% of the lowest calibration standard.	One blank per source sample set	Flag data.
Calibration Linearity—Section 10.1	Correlation coefficient of 0.99 or higher.	Per source sample set	Repeat calibration procedures.
Calibration Check Standard—Section 10.3.	Within 10% of theoretical value	One calibration check per source sample set.	Repeat check, remake standard and repeat, repeat calibration.
Lab Duplicates—Section 11.2.1	Within 10% of mean of original and duplicate sample analysis.	One duplicate per 10 samples	Flag data.
Analytical Blanks—Section 11.2.2	<50% of the lowest calibration standard.	One blank per source sample set	Clean glassware/analytical equipment and repeat.

10.0 Calibration and Standardization

10.1 *Spectrophotometer Calibration.* Prepare a stock solution of 10 ppm formaldehyde. Prepare a series of calibration standards from the stock solution by adding 0, 0.1, 0.3, 0.7, 1.0, and 1.5 mL of stock solution (corresponding to 0, 1.0, 3.0, 7.0, 10.0, and 15.0 µg formaldehyde, respectively) to screw-capped vials. Adjust each vial's volume to 2.0 mL with reagent water. Add 2.0 mL of acetyl acetone reagent, thoroughly mix the solution, and place the vials in a water bath (or heating block) at 60 °C for 10 minutes. Remove the vials and allow to cool to room temperature. Transfer each solution to a cuvette and measure the absorbance at 412 nm using the spectrophotometer. Develop a calibration curve from the analytical results of these standards. The acceptance criteria for the spectrophotometer calibration is a correlation coefficient of 0.99 or higher. If this criteria is not met, the calibration procedures should be repeated.

10.2 *Spectrophotometer Zero.* The spectrophotometer should be zeroed with reagent water when analyzing each set of samples.

10.3—*Calibration Checks.* Calibration checks consisting of analyzing a standard separate from the calibration standards must be performed with each set of samples. The calibration check standard should not be prepared from the calibration stock solution. The result of the check standard must be within 10 percent of the theoretical value to be acceptable. If the acceptance criteria are not met, the standard must be reanalyzed. If still unacceptable, a new calibration curve must be prepared using freshly prepared standards.

11.0 Analytical Procedure

11.1 *Sample Analysis.* A 2.0-mL aliquot of the impinger catch/rinsate is transferred to a screw-capped vial. Two mL of the acetyl acetone reagent are added and the solution is thoroughly mixed. Once mixed, the vial is placed in a water bath (or heating block) at 60 °C for 10 minutes. Remove the vial and allow to cool to room temperature. Transfer the solution to a cuvette and measure the absorbance using the spectrophotometer at 412 nm. The quantity of formaldehyde present is determined by comparing the sample response to the calibration curve. Use Equation 323–5. If the sample response is out of the calibration range, the sample must be diluted and reanalyzed. Such dilutions must be performed on another aliquot of the original sample before the addition of the acetyl acetone reagent. The full procedure is repeated with the diluted sample.

11.2 Analytical Quality Control

11.2.1 *Laboratory Duplicates.* Two aliquots of one sample from each source sample set should be prepared and analyzed (with a minimum of one pair of aliquots for every 10 samples). The percent difference between aliquot analysis should be within 10 percent of their mean. Use Equation 323–3. Data are flagged if the laboratory duplicates do not meet this criteria.

11.2.2 *Analytical blanks.* Blank samples (reagent water) should be incorporated into each sample set to evaluate the possible presence of any cross-contamination. The acceptance criteria for the analytical blank is less than 50 percent of the lowest calibration standard. If the analytical blank does not meet this criteria, the glassware/analytical equipment should be cleaned and the analytical blank repeated.

12.0 Calculations and Data Analysis

12.1 Nomenclature

A = measured absorbance of 2 mL aliquot
B = estimated sampling rate, lpm
C_l = target concentration in liquid, ppmw
D = estimated stack formaldehyde concentration (ppmv)
E = estimated liquid volume, normally 40, mL (the size of the VOA used)
c_{form} = formaldehyde concentration in gas stream, ppmvd
c_{form} @$15_{\%02}$ = formaldehyde concentration in gas stream corrected to 15% oxygen, ppmvd
C_{sm} = measured concentration of formaldehyde in the spiked aliquot
C_u = measured concentration of formaldehyde in the unspiked aliquot of the same sample
Cs = calculated concentration of formaldehyde spiking solution added to the spiked aliquot
df = dilution factor, 1 unless dilution of the sample was needed to reduce the absorbance into the calibration range
F_d = dry basis F-factor from Method 19, dscf per million btu
GCV_g = Gross calorific value (or higher heating value), btu per scf
K_c = spectrophotometer calibration factor, slope of the least square regression line (**Note:** Most spreadsheets are capable of calculating a least squares line.)
K_1 = 0.3855 °K/mm Hg for metric units, (17.65 °R/in.Hg for English units.)
MW = molecular weight, 30 g/g-mole, for formaldehyde

24.05 = mole specific volume constant, liters per g-mole
m = mass of formaldehyde in liquid sample, mg
P_{std} = Standard pressure, 760 mm Hg (29.92 in.Hg)
P_{bar} = Barometric pressure, mm Hg (in.Hg)
PD = Percent Difference
Q_e = exhaust flow rate, dscf per minute
Q_g = natural gas fuel flow rate, scf per minute
T_m = Average DGM absolute temperature, °K (°R).
T_{std} = Standard absolute temperature, 293 °K (528 °R).
t = sample time (minutes)
V_m = Dry gas volume as measured by the DGM, dcm (dcf).
$V_{m(std)}$ = Dry gas volume measured by the DGM, corrected to standard conditions, dscm (dscf).
V_t = actual total volume of impinger catch/rinsate, mL
V_a = volume (2.0) of aliquot analyzed, mL
X_1 = first value
X_2 = second value
O_{2d} = oxygen concentration measured, percent by volume, dry basis
%R = percent recovery of spike
Z_u = volume fraction of unspiked (native) sample contained in the final spiked aliquot [*e.g.*, Vu/(Vu + Vs), where Vu + Vs should = 2.0 mL]
Z_s = volume fraction of spike solution contained in the final spiked aliquot [*e.g.*, Vs/(Vu + Vs)]
R = 0.02405 dscm per g-mole, for metric units
Y = Dry Gas Meter calibration factor

12.2 Pretest Design

$$C_l = \frac{B*t*D*30}{24.05*E} \qquad \text{Eq. 323-1}$$

12.3 Exhaust Flow Rate

$$Q = \frac{F_d Q_g G C V_g}{10^6}\left[\frac{20.9}{20.9 - O_{2d}}\right] \qquad \text{Eq. 323-2}$$

12.4 Percent Difference.—(Applicable to Field and Lab Duplicates)

$$PD = \frac{(X_1 - X_2)}{\left(\frac{X_1 + X_2}{2}\right)} * 100 \qquad \text{Eq. 323-3}$$

12.5 Percent Recovery of Spike

$$\%R = \frac{(C_{sm} - Z_u C_u)}{Z_s C_s} * 100 \qquad \text{Eq. 323-4}$$

12.6 Mass of Formaldehyde in Liquid Sample

$$m = K_c A F\left(\frac{V_t}{V_a}\right) \qquad \text{Eq. 323-5}$$

12.7 Dry Sample Gas Volume, Corrected to Standard Conditions

$$V_{m(std)} = \frac{(V_m Y T_{std} P_{bar})}{(T_m P_{std})} = \frac{K_i Y V_m P_{bar}}{T_m} \qquad \text{Eq. 323-6}$$

12.8 Formaldehyde Concentration in Gas Stream

$$c_{form} = \frac{R}{MW}\left(\frac{m}{V_{m(std)}}\right)\left(\frac{1\ g}{1000\ mg}\right)\left(1\times 10^6\ ppm\right) \qquad \text{Eq. 323-7}$$

12.9 Formaldehyde Concentration, Corrected to 15% Oxygen

$$c_{form@15\%O_2} = c_{form} * \frac{(20.9 - 15)}{(20.9 - O_{2d})} \qquad \text{Eq. 323-8}$$

13.0 Method Performance

13.1 *Precision.* Based on a Method 301 validation using quad train arrangement with post sampling spiking study of the method at a natural gas-fired IC engine, the relative standard deviation of six pairs of unspiked samples was 11.2 percent at a mean stack gas concentration of 16.7 ppmvd.

13.2 *Bias.* No bias correction is allowed. The single Method 301 validation study of the method at a natural gas-fired IC engine, indicated a bias correction factor of 0.91 for that set of data. An earlier spiking study got similar average percent spike recovery when spiking into a blank sample. This data set is too limited to justify using a bias correction factor for future tests at other sources.

13.3 *Range.* The range of this method for formaldehyde is 0.2 to 7.5 ppmw in the liquid phase. (This corresponds to a range of 0.27 to 10 ppmv in the engine exhaust if sampling at a rate of 0.4 Lpm for 60 minutes and using a 40 mL VOA bottle.) If the liquid sample concentration is above this range, perform the appropriate dilution for accurate measurement. Any dilutions must be taken from new aliquots of the original sample before reanalysis.

13.4 *Sample Stability.* Based on a sample stability study conducted in conjunction with the method validation, sample degradation for 7 and 14-day hold times does not exceed 2.3 and 4.6 percent, respectively, based on a 95 percent level of confidence. Therefore, the recommended maximum sample holding time for the underivatized impinger catch/rinsate is 14 days, where projected sample degradation is below 5 percent.

14.0 Pollution Prevention

Sample gas from the combustion source exhaust is vented to the atmosphere after passing through the chilled impinger sampling train. Reagent solutions and samples should be collected for disposal as aqueous waste.

15.0 Waste Management

Standards of formaldehyde and the analytical reagents should be handled according to the Material Safety Data Sheets.

16.0 References

[1] National Council of the Paper Industry for Air and Stream Improvement, Inc., ''Volatile Organic Emissions from Pulp and Paper Mill Sources, Part X—Test Methods, Quality Assurance/Quality Control Procedures, and Data Analysis Protocols,'' Technical Bulletin No. 684, December 1994.

[2] National Council of the Paper Industry for Air and Stream Improvement, Inc., ''Field Validation of a Source Sampling Method for Formaldehyde, Methanol, and Phenol at Wood Products Mills,'' 1997 TAPPI International Environmental Conference.

[3] Roy F. Weston, Inc., ''Formaldehyde Sampling Method Field Evaluation and Emission Test Report for Georgia-Pacific Resins, Inc., Russellville, South Carolina,'' August 1996.

[4] Hoechst Celanese Method CL 8–4, ''Standard Test Method for Free Formaldehyde in Air Using Acetyl acetone,'' Revision 0, September 1986.

[5] Shareef, G.S., *et al.* ''Measurement of Air Toxic Emissions from Natural Gas-Fired Internal Combustion Engines at Natural Gas Transmission and Storage Facilities.'' Report No. GRI–96/0009.1, Gas Research Institute, Chicago, Illinois, February 1996.

[6] Gundappa, M., *et al.* ''Characteristics of Formaldehyde Emissions from Natural Gas-Fired Reciprocating Internal Combustion Engines in Gas Transmission. Volume I: Phase I Predictive Model for Estimating Formaldehyde Emissions from 2–Stroke Engines.'' Report No. GRI–97/0376.1, Gas

Research Institute, Chicago, Illinois, September 1997.

17.0 Tables, Diagrams, Flowcharts, and Validation Data

BILLING CODE 6560–50–P

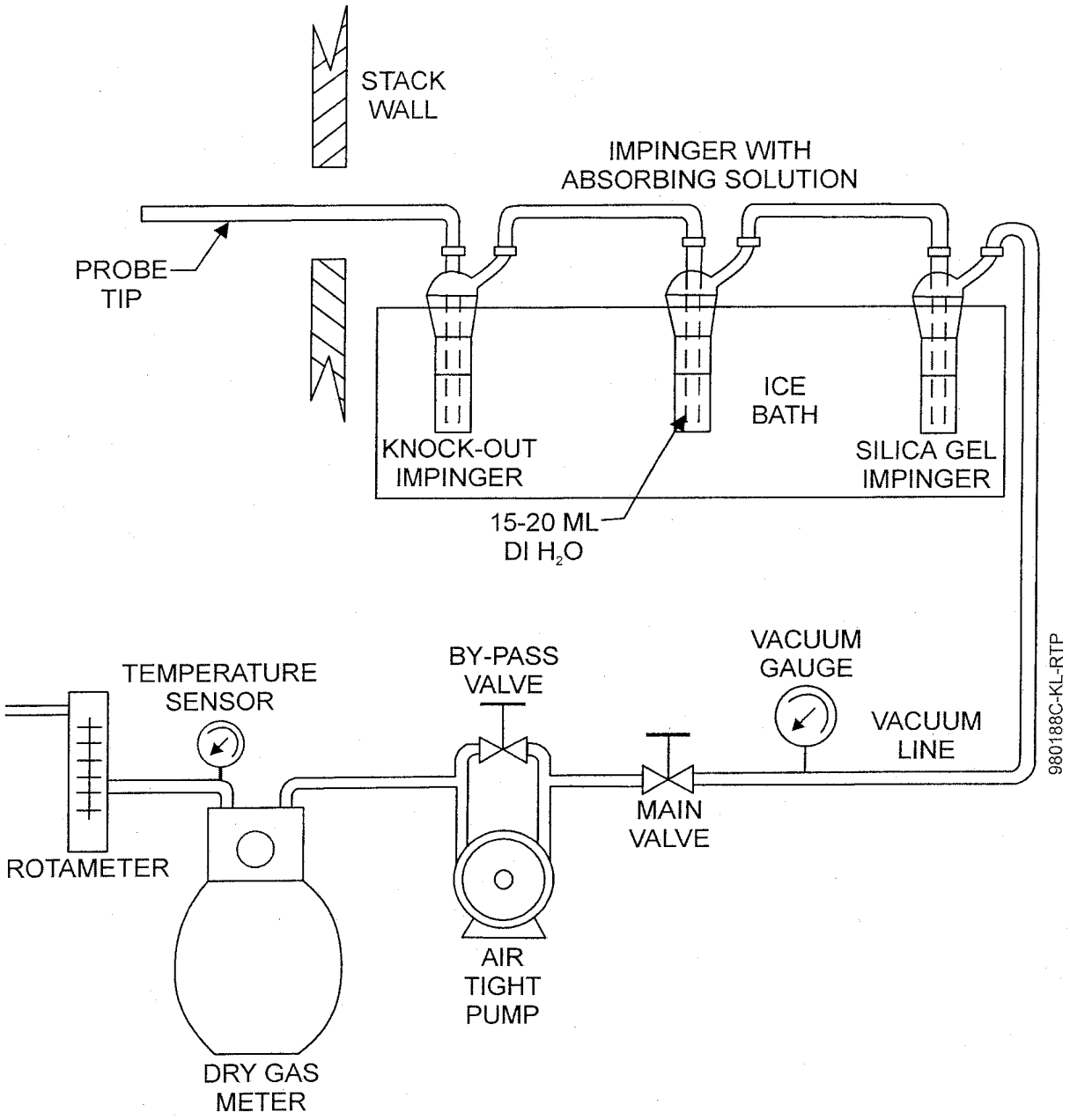

Figure 323-1. Chilled Impinger Train Sampling System

[FR Doc. 03–86 Filed 1–13–03; 8:45 am]

BILLING CODE 6560–50–C

Federal Register

Tuesday,
January 14, 2003

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Design Standards for Fuselage Doors on Transport Category Airplanes; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2003–14193; Notice No. 03–01]

RIN 2120–AH34

Design Standards for Fuselage Doors on Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to amend the design standards for fuselage doors, hatches, and exits on transport category airplanes. This action would improve door integrity by providing design criteria that would ensure that doors remain secure under all circumstances that service experience has shown can happen. Adopting this proposal also would relieve a certification burden on industry by eliminating regulatory differences between the airworthiness standards and related guidance material of the United States and Europe.

DATES: Send your comments on or before April 14, 2003.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–14193 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard. You also may submit comments through the Internet to: *http://dms.dot.gov.*

You may review the public docket containing comments to proposed regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Jeff Gardlin, Federal Aviation Administration, Airframe/Cabin Safety Branch (ANM–115), Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2136; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

How Do I Submit Comments to This NPRM?

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written documents.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

How Can I Obtain a Copy of This NPRM?

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search*);

(2) Visiting the Office of Rulemaking's web page at *http://www.faa.gov/avr/arm/nprm.cfm?nav=nprm;* or

(3) Accessing the **Federal Register**'s web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Be sure to identify the docket number, notice number, or amendment number of this rulemaking.

Background

What Prompted this Proposed Rule?

Following a major accident in 1974, which involved the opening of a fuselage door on a transport category airplane during flight, the FAA amended the applicable safety standards to provide a higher level of safety for fuselage doors. In 1980, the FAA issued amendment 25–54 to Title 14, Code of Federal Regulations (CFR), part 25 (45 FR 60172, September 11, 1980). The objective of this amendment was to provide a level of safety in doors that would be consistent with the level of safety required for other critical systems on the airplane, such as primary flight controls. This was achieved by:

- Requiring redundancy and fail-safe features in the door operating systems, and
- Providing protection from anticipated human errors.

In 1989, another wide-body transport category airplane lost a lower lobe cargo door during flight, along with a portion of fuselage structure above the door. Because of this accident and other similar accidents, the Air Transport Association (ATA) of America formed an industry task force to review door designs on transport category airplanes. This group was chartered to review the design and operation of doors on the current fleet of transport airplanes, and to recommend actions that would prevent any further unintended opening of outward opening doors. The group also reviewed relevant current regulations and advisory material, and provided recommendations to the FAA for necessary rule changes. The ATA submitted its recommendations to the FAA in a report entitled, ''ATA Cargo Door Task Force Final Report,'' dated May 15, 1991.

What NTSB Safety Recommendations are Related to this Proposed Rule?

As a result of its investigation of the airplane accidents associated with fuselage doors opening during flight, the National Transportation Safety Board (NTSB) also issued several Safety Recommendations concerning doors on transport category airplanes. The NTSB asked the FAA to consider the following recommendations:

Safety Recommendation A–89–092: ''Issue an airworthiness directive to require that the manual drive units and electrical actuators for the Boeing 747 cargo doors have torque-limiting devices

to ensure the lock sectors, modified in accordance with the requirements of Airworthiness Directive (AD)–88–12–04 [amendment 39–5934 (53 FR 18079, May 20, 1988)], cannot be overridden during mechanical or electrical operation of the latch cams.''

Safety Recommendation A–89–093: ''Issue an airworthiness directive for non-plug cargo doors on all transport category airplanes requiring the installation of positive indicators to ground personnel and flight crews confirming the actual position of both the latch cams and locks, independently.''

Safety Recommendation A–89–094: ''Require that fail-safe design considerations for non-plug cargo doors on present and future transport category airplanes account for conceivable human errors, in addition to electrical and mechanical malfunctions.''

Safety Recommendation A–92–21: ''Require that the electrical actuating system for non-plug cargo doors on transport category aircraft provide for the removal of all electrical power from circuits on the door after closure (except for any indicating circuit power necessary to provide positive indication that the door is properly latched and locked) to eliminate the possibility of uncommanded actuator movements caused by wiring short circuits.''

The FAA responded to these Safety Recommendations by issuing various airworthiness directives, applicable to the current fleet of transport category airplanes, and requiring relevant modifications and inspections of the fuselage doors.

Subsequent to the conclusion of the harmonization activity (as discussed below) that led to this proposal, the FAA received an additional safety recommendation from the NTSB, A–02–020. The NTSB recommends that the FAA ''Require all newly certificated transport category airplanes [to] have a system for each emergency exit door to relieve pressure so that they can only be opened on the ground after a safe differential pressure level is attained.'' We have not yet determined the appropriate course of action with regard to this recommendation, and no regulatory action is being proposed at this time. However, we solicit comments on this recommendation and, if appropriate, will develop a supplemental Notice of Proposed Rulemaking to propose an additional provision addressing this issue.

What Are the Relevant Airworthiness Standards in the United States?

In the United States, the airworthiness standards for type certification of transport category airplanes are contained in Title 14, Code of Federal Regulations (CFR), part 25. Manufacturers of transport category airplanes must show that each airplane they produce of a different type design complies with the appropriate part 25 standards. These standards apply to:

- Airplanes manufactured within the U.S. for use by U.S.-registered operators, and
- Airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

What Are the Relevant Airworthiness Standards in Europe?

In Europe, the airworthiness standards for type certification of transport category airplanes are contained in Joint Aviation Requirements (JAR)-25, which are based on part 25. These were developed by the Joint Aviation Authorities (JAA) of Europe to provide a common set of airworthiness standards within the European aviation community. Twenty-three European countries accept airplanes type certificated to the JAR–25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR–25 standards for export to Europe.

What Is ''Harmonization'' and How Did It Start?

Although part 25 and JAR–25 are very similar, they are not identical in every respect. When airplanes are type certificated to both sets of standards, the differences between part 25 and JAR–25 can result in substantial additional costs to manufacturers and operators. These additional costs, however, frequently do not bring about an increase in safety. In many cases, part 25 and JAR–25 may contain different requirements to accomplish the same safety intent. Consequently, manufacturers are usually burdened with meeting the requirements of both sets of standards, although the level of safety is not increased correspondingly.

Recognizing that a common set of standards would not only benefit the aviation industry economically, but also maintain the necessary high level of safety, the FAA and the JAA began an effort in 1988 to ''harmonize'' their respective aviation standards. The goal of the harmonization effort is to ensure that:

- Where possible, standards do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The FAA and JAA have identified a number of significant regulatory differences (SRD) between the wording of part 25 and JAR–25. Both the FAA and the JAA consider ''harmonization'' of the two sets of standards a high priority.

What Is ARAC and What Role Does It Play in Harmonization?

After initiating the first steps towards harmonization, the FAA and JAA soon realized that traditional methods of rulemaking and accommodating different administrative procedures was neither sufficient nor adequate to make appreciable progress towards fulfilling the goal of harmonization. The FAA identified the Aviation Rulemaking Advisory Committee (ARAC) as an ideal vehicle for assisting in resolving harmonization issues, and, in 1992, the FAA tasked ARAC to undertake the entire harmonization effort.

The FAA had formally established ARAC in 1991 (56 FR 2190, January 22, 1991), to provide advice and recommendations concerning the full range of the FAA's safety-related rulemaking activity. The FAA sought this advice to develop better rules in less overall time and using fewer FAA resources than previously needed. The committee provides the FAA firsthand information and insight from interested parties regarding potential new rules or revisions of existing rules.

There are 74 member organizations on the committee, representing a wide range of interests within the aviation community. Meetings of the committee are open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act.

The ARAC establishes working groups to develop recommendations for resolving specific airworthiness issues. Tasks assigned to working groups are published in the **Federal Register**. Although working group meetings are not generally open to the public, the FAA solicits participation in working groups from interested members of the public who possess knowledge or experience in the task areas. Working groups report directly to the ARAC, and the ARAC must accept a working group proposal before ARAC presents the proposal to the FAA as an advisory committee recommendation.

The activities of the ARAC will not, however, circumvent the public rulemaking procedures; nor is the FAA limited to the rule language ''recommended'' by ARAC. If the FAA accepts an ARAC recommendation, the

agency proceeds with the normal public rulemaking procedures. Any ARAC participation in a rulemaking package is fully disclosed in the public docket.

Under this program, the FAA provides ARAC with an opportunity to review, discuss, and comment on the FAA's draft NPRM. In the case of this rulemaking, ARAC concurred with the draft NPRM, without changes.

Discussion of the Proposal

What Is the General Scope of the Proposal?

The scope of this proposal is to revise and reorganize the existing rules in 14 CFR part 25 to provide the following:

1. Clarification of the existing design requirements for doors.
2. Definitive criteria for the door design requirements that are covered in the existing rules by general text.
3. Additional fail-safe requirements and detailed door design requirements, based on the recommendations of the NTSB and the ATA, and on current industry practice.

What Definitions Apply to the Proposed Rule?

To understand the rest of this proposal, the following definitions are helpful:

A *latch* is a movable mechanical element that, when engaged, prevents the door from opening.

A *lock* is a mechanical element that monitors the latch position and, when engaged, prevents the latch from becoming disengaged.

Latched means the latches are fully engaged with their structural counterparts and held in position by the latch operating mechanism.

Locked means the locks are fully engaged.

Latching mechanism includes the latch operating mechanism and the latches.

Locking mechanism includes the lock operating mechanism and the locks.

Closed means the door has been placed within the doorframe in such a position that the latches can be operated to the ''latched'' condition.

Fully closed means the door is placed within the doorframe in the position that it will occupy when the latches are in the latched condition.

What Are the Specific Proposed Changes?

This action proposes changes mainly to § 25.783, ''Doors.'' First, the title of § 25.783 would be changed from the current ''Doors'' to ''Fuselage doors'' to more accurately reflect the applicability of this revised section. The term ''doors,'' as used in this proposed revision of § 25.783, would also include hatches, openable windows, access panels, covers, etc., on the exterior of the fuselage that do not require the use of tools to open or close. This also would include each door or hatch through a pressure bulkhead, including any bulkhead that is specifically designed to function as a secondary pressure bulkhead under the prescribed failure conditions of 14 CFR part 25.

Other specific changes to § 25.783 are as follows:

Proposed Changes to § 25.783(a)

The format and portions of the text of paragraph (a) would be totally revised. The proposed text would describe the types of doors to which this section of the regulations is applicable, and would clarify the fact that the requirements apply to the unpressurized portions of flight as well as to pressurized flight.

Proposed paragraph (a) also would provide the general design requirements for doors. These general design requirements are not substantively different from the requirements contained in existing § 25.783. A reference to the locking requirements in § 25.607 (''Fasteners'') would be included in paragraph (a). Experience has shown that it is advisable to add this reference to ensure that these requirements are not overlooked during the door design process. One provision of this proposed requirement, which is new, would require the removal of all power that could initiate the unlatching and unlocking of the door during flight. It is based on NTSB Safety Recommendation A–92–21, discussed previously.

Proposed Changes to § 25.783(b)

Paragraph (b) would be revised to require safeguards against both inadvertent and deliberate opening of doors during flight. It would clarify the existing requirement that doors must be prevented from opening inadvertently (that is, not deliberately, and without forethought, consideration, or consultation) by people on board the airplane during flight. The intent of this requirement is to protect both the passenger and the airplane from hazards resulting from the unintentional actions by persons on board.

In addition, the proposal would make it clear that the door must be safeguarded against the deliberate opening during flight by persons on board. The proposed text requires that the possibility of deliberate opening be minimized. The intent of this requirement is that, for doors in pressurized compartments, it should not be possible to open the doors after takeoff, when the compartment is pressured to a significant level. (During approach, takeoff, and landing when compartment differential pressure is lower, intentional opening may be possible; however, during these short phases of the flight, all passengers are expected to be seated with seat belts fastened. The exposure to deliberate opening would therefore be minimized.) Further guidance on this subject is given in draft Advisory Circular 25.783–1X, discussed later in this document.

Further, for doors that can be opened under significant cabin pressure, or for doors in non-pressurized airplanes, the use of an auxiliary securing means, such as speed-activated or barometrically-activated devices, may be necessary. Paragraph (b) would require that, if auxiliary devices are used, they must be designed so no single failure or malfunction could prevent more than one exit from opening. Past interpretations of existing paragraph (f) have resulted in this type of design requirement being applied to type certification projects.

Proposed Changes to 25.783(c)

Paragraph (c) would restate the existing requirements of paragraph (f) for a provision to prevent the airplane from becoming pressurized if the door is not fully closed, latched, and locked. The current requirement states:

External doors must have provisions to prevent the initiation of pressurization of the airplane to an unsafe level if the door is not fully closed and locked * * *''

However, this proposal would remove the phrase, ''the initiation of'' from this text because it is inconsistent and confusing with regard to a common method of preventing pressurization that employs vent doors. Mechanical vent doors allow the pressurization system to initiate and a small amount of pressure may exist as the air flows through the vents. The revised text would correct this inconsistency. It also would allow for certain types of doors that:

- Can safely and reliably act as their own venting mechanism when not fully closed and latched; or
- Would automatically close and latch, as appropriate to the door design, before an unsafe level of pressure is reached.

For these doors without an independent means, the assessment for a safe and reliable closing would include consideration of single failures and adverse conditions, such as debris in the doorway.

Paragraph (c)(1) would provide a definitive criterion for the reliability level of the pressurization prevention system and would read: ''The provision must be designed to function after any single failure, or after any combination of failures not shown to be extremely improbable.'' This criterion is consistent with:

- The interpretation of the general text of the existing rule, and
- The current industry practice for new designs.

The FAA does not intend that the proposed criterion impose a new level of reliability for mechanical vent systems that is more stringent than that established by typical fail-safe designs. However, it would provide a definitive criterion for use in evaluating these vent systems or other systems that may interconnect with the airplane's pressurization system. A means for preventing pressurization that functions with a high degree of reliability despite operator and flightcrew errors would be consistent with NTSB Safety Recommendation A–89–094, described previously, which recommends fail-safe features that account for conceivable human errors.

Paragraph (c)(2) would exempt certain doors that meet the requirements of proposed paragraph (h) from the requirement to have a separate means to prevent pressurization. Generally such doors would have to either remain open, so that pressurization cannot take place, or must close and latch as pressurization takes place. Under this provision, these doors would have to be shown not to create a hazardous condition, assuming single failures in the latching mechanism as well as jams due to failures or debris. This would have to be shown from every possible position during the pressurization process. This proposal formalizes and standardizes previous equivalent level of safety findings made under the provisions of § 21.21(b)(1).

Proposed Changes to § 25.783(d)

Paragraph (d) would provide requirements for the detail design and fail-safe features of latching and locking mechanisms. Advisory Circular (AC) 25.783–1 ''Fuselage Doors, Hatches, and Exits,'' dated December 10, 1986, currently recommends some of these design features; the proposed rule would make these features mandatory.

The detail design requirements for latches and locks contained in this proposal are consistent with current industry practice, as applied to doors whose initial movement is not inward. However, the applicability of the proposed requirement would be extended to any door, regardless of the direction of initial movement.

Paragraph (d) also would require the latching mechanism to be designed to eliminate forces that would drive the latches to the open position. However, the FAA recognizes there still may be ratcheting forces that could progressively move the latches to the *unlatched* position. Therefore, the rule also would require the latching system to be designed such that the latches are positively secured without regard to the position of the locks.

Proposed paragraph (d)(3)(iii) contains the requirement for a fail-safe criterion for the locking system that would apply only to outward opening doors while under pressure. Since all the locks are usually designed as a single locking system, it is possible that single failures in the locking system could result in the unlocking of several or all the latches. Although the latches would continue to be held in the latched position by the latch system securing means, the FAA has determined that, for the most critical designs, during pressurized flight, single failures in the locking system should not unlock more latches than are needed to restrain the door.

Proposed paragraphs (d)(5) and (6) contain detail requirements for the lock elements and locking system to ensure that they will restrain the latches under anticipated loading conditions, and to ensure that the locks cannot be engaged unless the door is properly latched. Experience has shown these features to be fundamental to the design of a safe door.

Finally, proposed paragraph (d)(7) would exclude the requirement for a locking system from any door for which unlatching was not a hazard. In that case, a locking mechanism would not add to the safety of the door, since unlatching (which is what a locking mechanism is supposed to prevent) does not create a hazardous condition.

Proposed Changes to § 25.783(e)

Paragraph (e) would require warning, caution, and advisory indications for doors. These requirements for indication are similar to the current provisions for indication of door status in this section, but provide added features consistent with NTSB and ATA recommendations. The prescribed ''improbable'' level for an erroneous indication that the door is fully closed, latched, and locked is proposed to be the same as the requirement of existing paragraph (e). However, the applicability would be extended to each door, if unlatching of the door in flight could be a hazard.

Paragraph (e) also would require an aural warning before takeoff for any door that is not fully closed, latched, and locked if opening of the door would not allow safe flight. The FAA has determined that this requirement is necessary, based on service history, including the crash of an airplane shortly after takeoff as a result of aerodynamic interference from an open cargo door. This system should function in a manner similar to the takeoff configuration warning systems required by § 25.703 (''Takeoff warning system'').

Paragraph (e) also would require that there be a positive means to display indications and signals to the door operator. This proposed requirement is consistent with NTSB Safety Recommendation A–89–093, discussed previously.

Proposed Changes to § 25.783(f)

This proposal would revise paragraph (f) to require a provision for direct visual inspections to determine that the door is fully closed, latched, and locked. The specific location and quantity of the viewing means would depend on the specific design, but might not require a viewing means for each lock, provided that the number of visual indicators provided would not give a false indication. This proposed requirement is similar to that of the existing paragraph (b), which requires a means for direct visual inspection of the locking mechanism. However, this proposal would extend the requirements to apply to any door, irrespective of the direction of initial movement, if the unlatched door could be a safety hazard.

Proposed Changes to § 25.783(g)

This proposal would revise paragraph (g) to provide relief from certain requirements of the current rule that are applicable to access panels not subject to pressurization and for which opening would be inconsequential to safety. In addition, the proposal would provide relief from certain of the current requirements applicable to:

- Maintenance doors that are not a safety hazard if opened; and
- Removable emergency exits, because they are not used in normal operation and therefore not subjected to the same level of human error, abuse, and damage as other doors and hatches.

Proposed Changes to § 25.783(h)

Paragraph (h) would prescribe detail design features that a door would need to have if it were to be considered as a door that is ''not a hazard'' when this phrase is used in other paragraphs of § 25.783. This paragraph effectively defines the criteria under which a door

could become a potential hazard. The criteria include hazards due to decompression, aerodynamic interference, interaction with other systems or structure (for example, through the door departing the airplane and impacting an engine or control surface). For the purposes of this determination, opening by persons is treated separately from the tendency of the door to remain closed when under pressure. However, both are considerations that must be satisfied to determine that the door is not a hazard.

Proposed Changes to § 25.783(i)

The current requirements of paragraph (i) that apply to the design of air stairs (integral stair installed in a passenger entry door that is qualified as a passenger emergency exit) would be removed from existing § 25.783 and added in § 25.810 (''Emergency egress assist means and escape routes'') as a new paragraph (e), without change in text. The FAA considers that manufacturers, applicants, and others seeking compliance with rules would be better served by having these requirements located in the same section of the rules where other related requirements are found.

Proposed Changes to § 25.783(j)

The special requirement for lavatory doors contained in current paragraph (j) would be removed and placed in a new § 25.820 (''Lavatory doors''), with only minor editorial changes in text. The FAA considers that less confusion will be caused, and the regulated public will be better served, if all requirements about this particular subject are located in one separate place.

Other Proposed Changes

Several other provisions currently in § 25.783 would be deleted, since they duplicate the requirements applicable to emergency exit design that are contained in, or would be moved without substantive change to, other sections of part 25. The FAA considers that less confusion would be caused, and that the regulated public would be better served, if all requirements concerning a particular subject are located in one place. The FAA proposes the following specific changes:

§ 25.809(b) (''Emergency exit arrangement''):

This paragraph would be revised by adding a new paragraph (b)(3) to require that each emergency exit must be capable of being opened, when there is no fuselage deformation, ''even though persons may be crowded against the door on the inside of the airplane.'' This specific requirement is currently a part of § 25.783(b), but is more appropriate as part of the emergency exit arrangement requirements of § 25.809.

§ 25.809(c):

This paragraph would be revised to include the requirement that the means of opening emergency exits also must be marked so it can be readily located and operated, even in darkness. This requirement is currently located in § 25.783(b), but is more appropriate as part of the emergency exit arrangement requirements of § 25.809.

§ 25.809(f):

This paragraph would be revised to require that the external door be located where persons using it will not be endangered by the propellers when appropriate operating procedures are used. This requirement currently is found in § 25.783(d), but is more applicable to the emergency exit arrangement requirements of § 25.809. Existing § 25.809(f) is redundant with the requirements for locking mechanisms contained in § 25.783.

In addition, the FAA is also proposing to correct an error in the current regulations as follows:

§ 25.807 (''Emergency exits''):

Existing § 25.783 requires that passenger entry doors also meet the airworthiness standards required for emergency exits. In addition, the current JAR 25.807, issued by the European JAA, requires that certain other fuselage doors, as well as passenger entry doors, meet the same standards as emergency exits. Before the adoption of Amendment 25–88 (61 FR 57956, November 8, 1996), part 25 also contained a requirement similar to that of JAR 25.807; however, that requirement was unintentionally omitted when Amendment 25–88 was adopted. This proposed rule would correct this discrepancy by setting forth this requirement in a revised § 25.807(h), and by revising § 25.783 to refer to that section.

Specifically, the proposed § 25.807(h) would be revised to refer to ''other exits'' that must meet the applicable emergency exit requirements of §§ 25.809 through 25.812. Those exits include:

- Each emergency exit in the passenger compartment in excess of the minimum number of required emergency exits;
- Floor-level doors or exits that are accessible from the passenger compartment and larger than a Type II exit, but less than 46 inches wide; and
- Other ventral or tail cone passenger exits.

This provision is intended to address doors or other means of egress accessible from the passenger cabin. The width limit of 46 inches was derived from cargo doors that have been installed in smaller transport category airplanes. That is, cargo doors are not required to be exits. However, this provision does not relieve any emergency exit for which passenger credit is received from any of the applicable requirements.

Is Existing FAA Advisory Material Adequate?

The FAA also proposes to revise AC 25.783–1. The revised AC would describe an acceptable means, but not the only means, for complying with the proposed revised regulations described in this NPRM. The AC would provide guidance for showing compliance with structural and functional safety standards for doors and their operating systems. The availability of the proposed AC revision for public comment will be announced in the **Federal Register** in the near future.

What Regulatory Analyses and Assessments Has the FAA Conducted?

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires the consideration of international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more annually (adjusted for inflation).

The FAA has determined that this proposal has minimal costs, and that it is neither ''a significant regulatory action'' as defined in Executive Order 12866, nor ''significant'' as defined in DOT's Regulatory Policies and Procedures. Further, this proposed rule

would not have a significant economic impact on a substantial number of small entities, would reduce barriers to international trade, and would not impose an Unfunded Mandate on state, local, or tribal governments, or on the private sector.

The DOT Order 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposed rule does not warrant a full evaluation, a statement to that effect and the basis for it is included in the proposed regulation. Accordingly, the FAA has determined that the expected impact of this proposed rule is so minimal that the proposed rule does not warrant a full evaluation. We provide the basis for this determination as follows.

Currently, airplane manufacturers must satisfy both part 25 and the European JAR–25 standards to certificate transport category aircraft in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new transport category airplane often with no increase in safety. In the interest of fostering international trade, lowering the cost of aircraft development, and making the certification process more efficient, the FAA, JAA, and aircraft manufacturers have been working to create, to the maximum possible extent, a single set of certification requirements accepted in both the United States and Europe. As explained in detail previously, these efforts are referred to as ''harmonization.''

The proposed rule would amend the current fuselage door standard contained in 14 CFR part 25 with a new improved door standard. This new standard would set forth, as a regulatory requirement, some of the existing technical guidance criteria that have been determined to be necessary for safety but which, up to this point, have not been included in the regulations. In addition, the proposed rule addresses recommendations from the NTSB and the Air Transport Association (ATA) task force on doors.

If adopted, the proposal would harmonize the FAA and JAA requirements for fuselage doors. Adopting this proposal would also relieve a certification burden on industry by eliminating regulatory differences between the airworthiness standards and related guidance material of the United States and Europe.

Costs of the Proposed Rule

The FAA identified only one section, 25.783(b), of the proposed rule where manufacturers indicated that a measurable cost would exist. For the other proposed changes, the FAA has not made specific cost estimates but has provided qualitative cost indications.

1. *Paragraph 25.783(a)* is descriptive and has no expected cost.

2. *Paragraph 25.783(b)* relates to opening by persons. The requirement to consider deliberate opening is new, but is expected to be accommodated in existing design practices for all but one United States manufacturer. (Requirements regarding inadvertent opening are not new). One manufacturer would incur an estimated cost of $0.75 million, which would include the requirements for the prevention of intentional opening of the doors.

3. *Paragraph 25.783(c)* covers means to prevent pressurization. The requirement to consider single failures in the pressurization-inhibit system is new, but is believed to be industry practice. Thus, there is likely to be very little, if any, cost for a new design. The provision to permit certain doors to forego this system is actually cost-relieving, and could result in a minor cost reduction in some cases.

4. *Paragraph 25.783(d)* covers latching and locking. Most of these changes are the incorporation of recommendations currently contained in an advisory circular. The vast majority of airplanes already comply, and basic design practice is to comply with these requirements. Therefore, these requirements, while new, should have minimal cost impact. The requirement for each latch to have a lock, which must monitor the latch position, is a formalization of existing practice. The requirement to eliminate forces in the latching mechanism that could load the locks is new, and may not be complied with in all cases currently . The FAA believes that these costs are minimal.

5. *Paragraph 25.783(e)* covers warning, caution, and advisory indications. The reliability of the door indication system would be required to be higher for all doors. This would have only a small cost impact, as would the requirement for an aural warning for certain doors, and the requirement to provide an indication to the door operator.

6. *Paragraph 25.783(f)* contains the visual inspection provision requirement. The requirement for direct visual inspection is extended to more door types, and may add costs in some cases.

7. *Paragraph 25.783(g)* deals with certain maintenance doors, removable emergency exits, and access panels. The current rule does not provide the relief that the proposed rule does, although the AC has indicated that relief is possible. This provision could reduce costs in some cases.

8. *Paragraph 25.783(h)* covers doors that are not a hazard and is intended to provide relief for certain doors, so it could reduce costs.

9. *Paragraphs 25.783(i), 25.783(j), 25.809(b), 25.809(c), and 25.809(f)* move text to another section.

10. *Paragraph 25.807* simply corrects an unintended deletion.

Summary of Benefit and Cost Considerations

The proposed rule is expected to:

- Maintain or provide a slight increase in the level of safety,
- Have only a relatively small effect on costs when compared to current industry practice, and
- Provide some cost savings to manufacturers by avoiding duplicative testing and reporting that could result from the existence of differing requirements under the current standards.

This rule would codify existing guidance, standard industry practice, and industry recommendations for the design standards for fuselage doors, which would prevent a reoccurrence of the 1974 accident. The FAA believes that the cost savings from a single certification requirement exceed the minimal additional compliance cost. The FAA therefore considers that the proposed rule would be cost-beneficial. This is reinforced by industry's support for the proposal. We invite comments on the effects of this proposed regulation. We would particularly appreciate relevant quantitative data relating to any additional costs (or reductions in costs) believed likely to result from the proposed rule. The costs of interest are the increases or decreases, compared to costs associated with what is believed likely to be industry practice in the absence of the proposed rule.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980, 50 U.S.C. 601–612, as amended, establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle,

the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including businesses and governments.

Agencies must perform a review to determine whether a proposed or final rule will have a significant impact on a substantial number of small entities. If the determination is that the rule will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

If, however, an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA considers that this proposed rule would not have a significant impact on a substantial number of small entities for two reasons:

First, the proposed rule is expected to provide relief from some regulatory costs. The proposed rule would require that manufacturers of transport category aircraft meet a single certification requirement, rather than different standards for the United States and Europe. Manufacturers of the affected airplanes are believed to already meet most standards that would be required by the proposed rule, or expect to meet most of these standards.

Second, all affected U.S. transport-aircraft category manufacturers exceed the Small Business Administration small-entity criterion of 1,500 employees for aircraft manufacturers, as published by the Small Business Administration in 13 CFR part 121, Small Business Size Regulations; Size Standards, (65 FR 53533, September 5, 2000). The current U.S. part 25 airplane manufacturers include: Boeing, Cessna Aircraft, Gulfstream Aerospace, Learjet (owned by Bombardier), Lockheed Martin, McDonnell Douglas (a wholly-owned subsidiary of The Boeing Company), Raytheon Aircraft, and Sabreliner Corporation. All of these manufacturers have more than 1,500 employees and therefore do not qualify as small entities.

Since there are no affected small entity manufacturers of the airplanes covered by the proposed rule, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

In accordance with the above statute, the FAA has assessed the potential effect of this proposed rule and has determined that it would reduce trade barriers by narrowing the differences between U.S. standards and European international standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified in 2 U.S.C. 1532–1538, enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

This proposed rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million in any year; therefore, the requirements of the Act do not apply.

What Other Assessments Has the FAA Conducted?

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. We therefore determined that this notice of proposed rulemaking would not have federalism implications.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is the FAA's policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. We have determined that there are no ICAO Standards and Recommended Practices that correspond to this proposed regulation.

Environmental Analysis

FAA Order 1050.1D defines the FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with the FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (43 U.S.C. 6362), and the FAA Order 1053.1. It has been determined that it is not a major regulatory action under the provisions of the EPCA.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

Plain Language

In response to the June 1, 1998, Presidential memorandum regarding the issue of plain language, the FAA re-examined the writing style currently used in the development of regulations. The memorandum requires Federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this

document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Recording and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, and 44704.

2. Section 25.783 is revised to read as follows:

§ 25.783 Fuselage doors.

(a) *General.* This section applies to fuselage doors, which includes all doors, hatches, openable windows, access panels, covers, etc., on the exterior of the fuselage that do not require the use of tools to open or close. This also applies to each door or hatch through a pressure bulkhead, including any bulkhead that is specifically designed to function as a secondary bulkhead under the prescribed failure conditions of part 25. These doors must meet the requirements of this section, taking into account both pressurized and unpressurized flight, and must be designed as follows:

(1) Each door must have means to safeguard against opening in flight as a result of mechanical failure, or failure of each single structural element.

(2) Each door that could be a hazard if it unlatches must be designed so that opening during pressurized and unpressurized flight from the fully closed, latched, and locked condition is extremely improbable. This must be shown by safety analysis.

(3) Each element of each door operating system must be designed or, where impracticable, distinctively and permanently marked, to minimize the probability of incorrect assembly and adjustment that could result in a malfunction.

(4) All sources of power that could initiate unlocking or unlatching of each door must be automatically isolated from the latching and locking systems prior to flight and it must not be possible to restore power to the door during flight.

(5) Each removable bolt, screw, nut, pin, or other removable fastener must meet the locking requirements of § 25.607.

(6) Certain doors, as specified by § 25.807(h), must also meet the applicable requirements of §§ 25.809 through 25.812 for emergency exits.

(b) *Opening by persons.* There must be a means to safeguard each door against opening during flight due to inadvertent action by persons. In addition, design precautions must be taken to minimize the possibility for a person to open a door intentionally during flight. If these precautions include the use of auxiliary devices, those devices and their controlling systems must be designed so that:

(1) no single failure will prevent more than one exit from being opened, and

(2) failures that would prevent opening of the exit after landing are improbable.

(c) *Pressurization prevention means.* There must be a provision to prevent pressurization of the airplane to an unsafe level if any door subject to pressurization is not fully closed, latched, and locked.

(1) The provision must be designed to function after any single failure, or after any combination of failures not shown to be extremely improbable.

(2) Doors that meet the conditions described in paragraph (h) of this section are not required to have a dedicated pressurization prevention means if, from every possible position of the door, it will remain open to the extent that it prevents pressurization or safely close and latch as pressurization takes place. This must also be shown with each single failure and malfunction, except that:

(i) with failures or malfunctions in the latching mechanism, it need not latch after closing, and

(ii) with jamming as a result of mechanical failure or blocking debris, the door need not close and latch if it can be shown that the pressurization loads on the jammed door or mechanism would not result in an unsafe condition.

(d) *Latching and locking.* The latching and locking mechanisms must be designed as follows:

(1) There must be a provision to latch each door.

(2) The latches and their operating mechanism must be designed so that, under all airplane flight and ground loading conditions, with the door latched, there is no force or torque tending to unlatch the latches. In addition, the latching system must include a means to secure the latches in the latched position. This means must be independent of the locking system.

(3) Each door subject to pressurization, and for which the initial opening movement is not inward, must—

(i) have an individual lock for each latch,

(ii) have the lock located as close as practicable to the latch, and

(iii) be designed so that, during pressurized flight, no single failure in the locking system would prevent the locks from restraining the latches as necessary to secure the door.

(4) Each door for which the initial opening movement is inward, and unlatching of the door could result in a hazard, must have a locking means to prevent the latches from becoming disengaged. The locking means must ensure sufficient latching to prevent opening of the door even with a single failure of the latching mechanism.

(5) It must not be possible to position the lock in the locked position if the latch and the latching mechanism are not in the latched position.

(6) It must not be possible to unlatch the latches with the locks in the locked position. Locks must be designed to withstand the limit loads resulting from—

(i) the maximum operator effort when the latches are operated manually;

(ii) the powered latch actuators, if installed; and

(iii) the relative motion between the latch and the structural counterpart.

(7) Each door for which unlatching would not result in a hazard is not required to have a locking mechanism meeting the requirements of paragraphs (d)(3) through (d)(6) of this section.

(e) *Warning, caution, and advisory indications.* Doors must be provided with the following indications:

(1) There must be a positive means to indicate at the door operator's station for each door that all required operations to close, latch, and lock the door have been completed.

(2) There must be a positive means clearly visible from the operator station for each door to indicate if the door is not fully closed, latched, and locked for each door that could be a hazard if unlatched.

(3) There must be a visual means on the flight deck to signal the pilots if any door is not fully closed, latched, and locked. The means must be designed such that any failure or combination of failures that would result in an erroneous closed, latched, and locked indication is improbable for—

(i) each door that is subject to pressurization and for which the initial opening movement is not inward, or

(ii) each door that could be a hazard if unlatched.

(4) There must be an aural warning to the pilots prior to or during the initial portion of takeoff roll if any door is not fully closed, latched, and locked, and its opening would prevent a safe takeoff and return to landing.

(f) *Visual inspection provision.* Each door for which unlatching could be a hazard must have a provision for direct visual inspection to determine, without ambiguity, if the door is fully closed, latched, and locked. The provision must be permanent and discernible under operational lighting conditions, or by means of a flashlight or equivalent light source.

(g) *Certain maintenance doors, removable emergency exits, and access panels.* Some doors not normally opened except for maintenance purposes or emergency evacuation and some access panels need not comply with certain paragraphs of this section as follows:

(1) Access panels that are not subject to cabin pressurization and would not be a hazard if open during flight need not comply with paragraphs (a) through (f) of this section, but must have a means to prevent inadvertent opening during flight.

(2) Inward-opening removable emergency exits that are not normally removed, except for maintenance purposes or emergency evacuation, and flight deck-openable windows need not comply with paragraphs (c) and (f) of this section.

(3) Maintenance doors that meet the conditions of paragraph (h) of this section, and for which a placard is provided limiting use to maintenance access, need not comply with paragraphs (c) and (f) of this section.

(h) *Doors that are not a hazard.* For the purposes of this section, a door is considered not to be a hazard in the unlatched condition during flight, provided it can be shown to meet all of the following conditions:

(1) Doors in pressurized compartments would remain in the fully closed position if not restrained by the latches when subject to a pressure greater than ½ psi. Opening by persons, either inadvertently or intentionally, need not be considered in making this determination.

(2) The door would remain inside the airplane or remain attached to the airplane if it opens either in pressurized or unpressurized portions of the flight. This determination must include the consideration of inadvertent and intentional opening by persons during either pressurized or unpressurized portions of the flight.

(3) The disengagement of the latches during flight would not allow depressurization of the cabin to an unsafe level. This safety assessment must include the physiological effects on the occupants.

(4) The open door during flight would not create aerodynamic interference that could preclude safe flight and landing.

(5) The airplane would meet the structural design requirements with the door open. This assessment must include the aeroelastic stability requirements of § 25.629, as well as the strength requirements of this subpart.

(6) The unlatching or opening of the door must not preclude safe flight and landing as a result of interaction with other systems or structures.

3. Amend § 25.807 by revising paragraph (h) to read as follows:

§ 25.807 Emergency exits.

* * * * *

(h) *Other exits.* The following exits also must meet the applicable emergency exit requirements of §§ 25.809 through 25.812, and must be readily accessible:

(1) Each emergency exit in the passenger compartment in excess of the minimum number of required emergency exits.

(2) Any other floor-level door or exit that is accessible from the passenger compartment and is as large or larger than a Type II exit, but less than 46 inches wide.

(3) Any other ventral or tail cone passenger exit.

* * * * *

4. Amend § 25.809 by adding a new paragraph (b)(3) and by revising paragraphs (c) and (f) to read as follows:

§ 25.809 Emergency exit arrangement.

* * * * *

(b) * * *

(3) Even though persons may be crowded against the door on the inside of the airplane.

(c) The means of opening emergency exits must be simple and obvious; may not require exceptional effort; and must be arranged and marked so that it can be readily located and operated, even in darkness. Internal exit-opening means involving sequence operations (such as operation of two handles or latches, or the release of safety catches) may be used for flightcrew emergency exits if it can be reasonably established that these means are simple and obvious to crewmembers trained in their use.

* * * * *

(f) Each door must be located where persons using them will not be endangered by the propellers when appropriate operating procedures are used.

* * * * *

5. Amend § 25.810 by adding a new paragraph (e) to read as follows:

§ 25.810 Emergency egress assist means and escape routes.

* * * * *

(e) If an integral stair is installed in a passenger entry door that is qualified as a passenger emergency exit, the stair must be designed so that, under the following conditions, the effectiveness of passenger emergency egress will not be impaired:

(1) The door, integral stair, and operating mechanism have been subjected to the inertia forces specified in § 25.561(b)(3), acting separately relative to the surrounding structure.

(2) The airplane is in the normal ground attitude and in each of the attitudes corresponding to collapse of one or more legs of the landing gear.

* * * * *

6. Add a new § 25.820 to read as follows:

§ 25.820 Lavatory doors.

All lavatory doors must be designed to preclude anyone from becoming trapped inside the lavatory. If a locking mechanism is installed, it must be capable of being unlocked from the outside without the aid of special tools.

Issued in Renton, Washington, on December 20, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–581 Filed 1–13–03; 8:45 am]

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Federal Register

Tuesday,

January 14, 2003

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Transponder Continuous Operation; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA–2002–14081; NPRM No. 03–02]

RIN 2120–AH67

Transponder Continuous Operation

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would amend the instrument and equipment requirements for airplanes operated in domestic, flag, and supplemental operations. Specifically, the Federal Aviation Administration (FAA) proposes to require affected airplanes to have the capability to help assure immediate activation of the designated air traffic control (ATC) hijack alert code, and continuous transmission of that code to ATC during a hijack situation. The FAA is proposing this action in response to the heightened threat to U.S. civil aviation. The FAA believes that this capability would help provide ATC personnel with more time to initiate a national security response to a potential airplane hijack situation.

DATES: Send your comments on or before March 17, 2003.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–14081 at the beginning of your comments.

You may also submit comments through the Internet to *http://dms.dot.gov*. You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Richard E. Jennings, Aircraft Certification Service, Aircraft Engineering Division, AIR–130, Federal Aviation Administration, c/o Atlanta ACO, 1895 Phoenix Boulevard, Suite 450, Atlanta, GA 30349; telephone (770) 703–6090; facsimile (770) 703–6055, e-mail *Richard.Jennings@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file comments we receive in the docket, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Comments regarding national security information or sensitive security information should not be submitted directly to the public docket. These comments should be submitted according to procedures for safeguarding sensitive security information and sent to: Armen A. Sahagian, Office of Civil Aviation Security, Program Manager, Aircraft Security, ACP–400, Room 323, Transportation Security Administration, 800 Independence Avenue, SW., Washington, DC 20591, Docket No. FAA–2002–14081. Questions on these procedures may be directed to Armen Sahagian. These comments will be reviewed to determine appropriateness for inclusion in the public docket system.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last five digits of the Docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number of the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's web page at *http://www.faa.gov/avr/armhome.htm* or the Government Printing Office's web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html*.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Background

On September 11, 2001, four U.S.-registered commercial airliners operating under the provisions of 14 CFR part 121 were hijacked and subsequently crashed, resulting in great loss of life and extensive damage to occupied buildings. In order to reduce the likelihood of such an event reoccurring, the FAA initiated a complete review of aircraft and airport security procedures. Based on this review, the FAA has determined that it is necessary to propose certain new regulations that would increase the desired level of safety and security.

If adopted, these proposed amendments would require that a single action by the pilot or copilot (or flight engineer, where appropriate) immediately activate the air traffic control (ATC) transponder beacon code ''7500,'' which is the International Civil Aviation Organization (ICAO) code indicating to ATC that an aircraft is being subjected to unlawful interference, that is, being hijacked.

Before the events of September 11, a flight crew would have responded appropriately to an airborne hijack situation by acceding to a hijacker's demands, flying the aircraft to the instructed destination, and allowing the appropriate authorities to resolve the situation. Before September 11, however, no one had envisioned a hijacking situation in which a hijacker would take control of a commercial

aircraft and successfully use that aircraft as a weapon. Of the four aircraft involved in the events of September 11, none of the flight crews were able to switch to the designated hijack alert code, thus delaying ATC awareness of the unfolding situation. Further, the transponders on three of the four airplanes ceased replying to ATC radar interrogations within minutes of departing from their assigned routes. These events have changed profoundly the way in which a future hijack situation may be handled, and more generally, our concept of what is considered appropriate aviation safety and security.

In response to the events of September 11, the Secretary of Transportation established the Rapid Response Teams (RRT) for Aircraft Security and Airport Security to identify measures to improve aviation security. The Aircraft Security Team was composed of individuals from the aviation industry, including airplane designers and manufacturers, airline operators, airline pilots, and flight attendants. Additionally, the teams consulted with and considered input from concerned private citizens and other sectors of industry. The RRT for Aircraft Security considered changes to aircraft design and operation that could (1) deny or at least delay any unauthorized access to the flight deck, (2) better train crewmembers to deal with security risks, and (3) ensure the flow of information from an aircraft to ATC. The RRT for Airport Security focused on such issues as improved screening of passengers, baggage, and aircraft and airport personnel prior to direct contact with an aircraft.

On October 1, 2001, the RRT for Aircraft Security submitted its report to the Secretary of Transportation for consideration. [This report is available in Docket No. FAA–2002–14081.] The report included 17 recommendations to help counter a situation in which an airplane might be hijacked and used as a weapon. Recommendation No. 16 called for the creation of an FAA-industry task force to determine the necessary modifications for airplane transponders to assure continuous transmission of a hijack signal, even if the fight deck-selected code or function is disabled. The task force was to examine the following: all alternatives that would allow pilots the ability to set and lock-in the hijack code so that a hijacker could not disable it; a ''panic button'' that would initiate the hijack code during an emergency situation; and an independent transponder that could not be disabled by the hijacker.

Based on that RRT recommendation, the Air Transport Association of America (ATA) volunteered to facilitate formation of an FAA-Industry Transponder Task Force. The Task Force was composed of representatives from U.S. and foreign passenger and cargo airlines; FAA; Transport Canada; various industry associations; research and development centers funded by the U.S. Government; and manufacturers of airplanes, transponders, and transponder controls.

At the time the Task Force was formed, several design concepts that could potentially satisfy RRT Recommendation No. 16 had been formulated. In evaluating these concepts and other suggestions, the Task Force assumed as its basis that any transponder system modifications should (1) allow for the rapid selection of the hijack alert code, and (2) assure continuous transmission of this code once it had been activated. The Task Force also assumed that the flight deck doors on airplanes operated under part 121 would be modified for increased strength, allowing additional time for the flight crew to initiate the hijack alert code.

The Task Force evaluated the three most promising design concepts and submitted a final report to the FAA on November 5, 2001. The report also identified potential vulnerabilities in the various design concepts, and therefore, because of national security considerations, the details of this report are not being released to the general public for review or placed in the public docket. However, this proposed rule is based, in part, on the efforts of the Task Force. A redacted version of this report is available in Docket No. FAA–2002–14081.

These actions taken by the FAA and the aviation industry following the events of September 11 are directly in line with the Aviation and Transportation Security Act of 2001 (Act), Public Law 107–71. Section 104, Paragraph (b), Sub-Paragraph (2), of the Act states that ''the FAA Administrator may develop and implement methods to ensure continuous operation of an aircraft transponder in the event of an emergency.''

Related Activity

In response to the September 11 attacks, the FAA has initiated several regulatory actions. On January 10, 2002, the FAA issued a final rule temporarily authorizing variances from existing flightcrew compartment door design standards for the doors and allowing for approval for return to service of modified airplanes without prior approved data if the modification constitutes a major alteration. This rule mandated these modifications on aircraft in certain passenger and cargo carrying operations. Also on January 10, 2002, the FAA issued a final rule requiring certain airplanes operated under part 121 to be equipped with a means to protect the flight deck from unauthorized intrusion and small arms fire or fragmentation devices. The FAA believes these related rulemaking activities will significantly reduce the danger to the flying public by preventing future terrorists from gaining access to an airplane's flight deck.

Since this document was drafted, a number of other security measures have been adopted in response to the Aviation Security Act of 2001. The FAA welcomes and encourages comments about how this proposal, when considering these other security measures that have been adopted, would contribute further to safety and security and how this additional proposal would affect the aviation industry.

Current Requirements

All air carrier aircraft are required to be equipped with an ATC transponder (see 14 CFR 91.215 and 121.345), which in normal operation provides a radar beacon identity code and altitude (Modes 3A/C) for ATC use in controlling aircraft in en route and terminal areas of operations. During normal operations it is expected that a flight crew could manually dial-in a new ATC-directed Mode 3A transponder radar beacon code, through the transponder control panel, in roughly five to ten seconds. However, under the stress of a hijack situation it may take considerably longer than ten seconds to dial-in the designated hijack alert code, or it may not be possible at all if the flight crew is distracted by a flight deck intruder. In addition, during a hijack situation, the current requirements do not prevent an airplane's ATC transponder from being switched to the ''standby'' position, or having its circuit breaker ''pulled''—actions which would disable the transponder's response to an ATC ground radar beacon interrogation.

The designated hijack alert code is ''7500,'' which is defined in section 2.1.4 of Volume IV of the International Civil Aviation Organization (ICAO) Annex 10 as the appropriate code to indicate to ATC that an aircraft is being subjected to unlawful interference.

General Discussion of the Proposal

If an aircraft were to be used as a terrorist weapon, there are numerous

targets of opportunity that could be destroyed by a large airplane. With this in mind, the FAA proposes to add a new § 121.346 to require all airplanes operated under part 121 to be modified to provide the capability for the immediate notification to ATC of a hijack situation, and for the transponder to continuously transmit the emergency transponder code once activated. At this time, the FAA is proposing that the rule should apply only to passenger and cargo airplanes operated under part 121. The FAA invites interested persons to comment on the applicability of these requirements to aircraft operated under 14 CFR parts 91, 125, 129, or 135. If the FAA determines that additional aircraft should be included, a separate proposal will be issued.

Paragraph (a) of the proposed rule would require that a single action would immediately set the airplane's ATC transponder Mode 3A beacon code to ''7500,'' which would be picked up by ATC ground surveillance radar. The proposal would require the ''single action'' method of activation, for example a switch or a button, to be accessible to both the pilot and copilot (and flight engineer, where appropriate). The FAA believes that activation through a single action would greatly enhance the flight crew's ability to quickly enable the transponder hijack alert code and thus ensure faster recognition of the hijack situation by ATC. However, the FAA also has determined that there should be a means to protect against unintentional activation of the hijack alert code. Therefore, as an example, a motion that lifts a guarded switch or breaks a frangible wire in the process of activation would still be considered a single action.

Paragraph (b) of the proposed rule would require that three conditions be met upon activation of the hijack alert code. Paragraph (b)(1) would require that the transponder's Mode C, or altitude reporting function, be maintained with activation of the hijack alert code. Altitude reporting would help ATC positively identify the hijacked airplane, and keep other aircraft safely out of its projected path.

Paragraph (b)(2) would require that a visual indication be provided to the flight crew as positive feedback of activation. A recent incident has shown the FAA the importance of this feedback to the flight crew. An airplane with a system similar to that proposed by this rule departed on a flight without realizing that the hijack alert code had been activated. Upon takeoff, ATC immediately detected the hijack alert code and challenged the flight crew. The airplane subsequently returned to its departure airport, escorted by two military fighter aircraft. On further investigation, it was determined that the airplane's hijack alert code had been activated unintentionally by ground personnel. Had the flight crew been provided a visual indication that the system had been activated, the crew could have corrected the situation before departure, averting a cost to the airline and disruption to the flow of the local air traffic.

Paragraph (b)(3) would require installation considerations to help ensure continuous operation of the ATC transponder hijack alert code once it is activated. The FAA believes that continuous operation considerations should include inhibiting any further inputs from the ATC transponder control panel, for example any attempts to change beacon codes or to switch the transponder to standby, as well as for improving the security for electrical power to the transponder equipment. In addition, the FAA believes that resetting the ATC transponder to a normal mode of operation should be through a ground action by appropriate personnel. Where practical, this resetting action should not be accessible from within the airplane. Because inhibiting any further inputs to the transponder control panel would also prevent turning off altitude reporting at the request of ATC, the flight crew would be unable to comply with the requirements of § 91.217(a). Therefore, paragraph (b)(3) also would provide relief from § 91.217(a) when the capability described in proposed § 121.346 is activated.

Common airplane transponder installations provide for separate electrical power breakers in the flight deck for each of the two installed ATC transponders. As proposed, this rule would require (upon activating the hijack alert code) the removal of power from the electrical breakers for the ATC transponders in the flight deck, and the transfer of power to remotely mounted breakers not accessible from the flight deck or cabin. This design change would prevent removing electrical power from the transponders as flight crews would perform when required to do so.

Because the FAA does not want to cause a complete redesign of an airplane's electrical system, and because the FAA realizes that transponder operation could be silenced by the removal of all electrical power, the FAA has used the phrase ''* * * must not be able, by reasonable means, to disable the transponder * * * '' to mean that no person onboard the airplane should be able to remove power from the transponder simply by pulling the associated circuit breaker.

Deactivation of the ATC transponder by means of removal of significant airplane electrical power to the detriment of airplane operations or obtaining access to a part of the airplane normally not accessible by the crew, are not considered *reasonable.*

It is expected that most part 121 operators will add the capability required by § 121.346 to function with the existing ATC transponder equipment installed on their airplanes. However, some operators may desire not to alter their existing equipment configuration, and instead choose to install an additional and dedicated ATC transponder to meet the requirements of this proposed rule. Because one cannot assure that a hijacker will, in fact, disable an airplane's normally operating ATC transponder, it is possible that more than one transponder could be operating and attempting to respond to the ATC secondary surveillance interrogation. This could result in an inaccurate reply, and subsequent rejection of both transponders' Mode 3A/C beacon codes by the ATC ground interrogator. To prevent this situation, operators who choose to install an additional and dedicated transponder to meet these proposed requirements should provide a means to inhibit replies from all other ATC transponders installed on the airplane at the time that this dedicated ATC transponder is activated.

Given the importance of these proposed requirements, the FAA would prefer to put them into effect as quickly as possible. However, the FAA is aware that operators will need approved installation data in order to accomplish the airplane modifications required by this proposed rule. Therefore, the FAA proposes a compliance date of March 29, 2005. This date also was selected to coincide with the current compliance date for Terrain Awareness and Warning Systems (14 CFR 121.354(b)), to minimize the amount of downtime for any given airplane. Assuming that the final rule for this proposal is issued by December 31, 2002, operators would have approximately 27 months to accomplish the required modifications. This would allow approximately 6 months to support development of the approved installation data, including for example equipment modifications, manufacturer's service bulletins, and Supplemental Type Certificates, and 21 months for operators to schedule the necessary airplane downtime to complete the actual modification. Because the airplanes in question are maintained under a continuous

airworthiness maintenance program, which includes a heavy maintenance visit scheduled approximately each 12 months, the FAA believes that operators could conclude any modifications required by this proposed rule within the time constraints of a single heavy maintenance cycle. The FAA believes the March 2005 compliance date would minimize the financial burden for affected operators as well as provide a long-term aviation safety benefit.

Initial Economic Evaluation, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency proposing or adopting a regulation to make a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this act requires agencies to consider international standards and, where appropriate, use them as the basis for U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed and final rules. An assessment must be prepared only for rules that impose a Federal mandate on State, local, or tribal governments, in the aggregate, or on the private sector, likely to result in a total expenditure of $100 million or more (adjusted for inflation) in any one year.

In conducting these analyses, the FAA determined the following: the benefits of this proposed rule justify its costs; it would be a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866; it would be ''significant'' as defined in DOT's Regulatory Policies and Procedures; it would not have a significant impact on a substantial number of small entities; it would have no effect on trade-sensitive activity; and it would not impose an unfunded mandate on State, local, or tribal governments, or on the private sector. These analyses, available in the docket, as summarized below.

Benefits and Costs

This proposed rule is part of a series of rulemaking actions aimed at preventing or deterring a similar occurrence to the September 11 attacks. It is designed to ensure immediate ATC notification of a hijack situation, and to assist in maintaining ATC tracking of the hijacked airplanes for purposes of national security. As such, the benefits of this proposed rule are to ensure the security of the American public.

The cost of another catastrophic terrorist act cannot be reasonably measured in dollars. As it was witnessed on September 11, terrorist acts can result in the complete destruction of an aircraft with the loss of all on board, and with collateral damage far exceeding that of the aircraft and passengers. The main benefit related to this proposed rule is the averted loss of life by taking corrective action.

The economic and social costs of the September 11 attacks have been measured in the billions of dollars, and another terrorist attack could be far more costly. Therefore, the FAA attributes the benefits of this proposed rule to the series of rules designed to ensure the safety and security of the American public. Such benefits cannot be reasonably quantified nor allocated between the multiple actions taken to avoid a repeat of the attack. In addition to preventing the extraordinary costs of another attack, this proposed rule responds to the interest of the U.S. Congress as specified in the Aviation and Transportation Security Act.

The FAA estimates that 7,394 airplanes would be potentially affected by the proposed rule. Given that the deadline to comply with this proposed rule is tentatively set for March 2005 (27 months after the expected issuance of the final rule), the FAA assumes that all retrofitting expenses would be spread evenly, on a monthly basis, between January 2003 and March 2005.

The estimated capital cost to upgrade airplanes with transponders capable of continuous operation in hijack mode is approximately $3,000 for each airplane. This figure was provided by transponder and transponder control manufacturers, aircraft manufacturers, and airlines that received quotes from suppliers. Purchasing the compliant transponder controls or software upgrade for a fleet of 7,394 airplanes would cost $22.2 million, over the three-year period. The industry also estimated overall certification costs for the software and hardware to be $1,000,000, to be incurred in 2002.

The software or hardware investment is only a portion of the cost to the industry. Locking a transponder into continuous operation is a relatively inexpensive and easy solution. Every transponder manufacturer claimed that a software upgrade would not require any downtime. The transponder could be removed from the airplane in a matter of minutes, replaced by a substitute transponder while the software upgrades were implemented (airlines indicated an abundance of transponders), and then reinstalled. The simplest, and quickest, solution for some operators is a transponder software upload, which is expected to be on the market for less than $3,000, and which could be accomplished on the airplane (that is, the transponder would not have to be removed). This update could be accomplished in about 5 minutes, and would allow the transponder to lock out all other inputs after the hijack alert code is entered.

To comply with the proposed rule, operators also would need to install a method of rapid activation and isolate electrical power to the transponder control equipment. The labor cost, therefore, would likely be the same, regardless of the solution chosen, because there would be a need to wire a method of rapid activation and isolate the electrical power. Industry identified these tasks as being labor-intensive. Airline technicians would require approximately 52 work hours per aircraft to wire a method of rapid activation and/or install a transponder control in the avionics bay. At an average hourly rate of $50, this translates into $19.2 million to retrofit the entire affected fleet. The upgrade would have to be performed during a ''C'' or ''D'' check, or place the aircraft out of service for a 2-day period. Alternatively, because the task would not need to be completed in one setting, the wiring could be performed in stages during several overnight maintenance sessions. In addition, the parts and supplies for this wiring would cost about $1,000 per aircraft. For the entire fleet, this would mean approximately $7.4 million over the 3 years.

The FAA conservatively estimated that all passenger and cargo airplanes affected by the proposed rule would incur downtime costs, at a fleet-wide average opportunity cost of $5,178 per aircraft. This opportunity cost of capital represents the return foregone by having invested in the airplane rather than investing in securities. This figure reflects a fleet-wide average value of $15.0 million per airplane, multiplied by the industry's return on investment of 6.3 percent for the year 2000, for 2 days of lost service. The total cost of airplane downtime is calculated to be approximately $38.3 million, spread over the 3 years. The FAA believes the estimate of downtime is a high-side estimate because most operators will

perform the conversion during normal scheduled maintenance. A compliance date of 2005 will allow operators adequate time to schedule the upgrades within regular maintenance intervals.

Cumulatively, the proposed rule is expected to cost the industry up to $88.1 million ($78.9 million discounted) between 2002 and 2005. However, the cost to the industry could be as low as $49.8 million ($44.6 million discounted), if no downtime costs were incurred. Accordingly, the FAA believes that the proposed rule is cost-beneficial and is necessary to ensure the level of aviation security expected by the American public.

The FAA solicits comments from affected entities with respect to these findings and determinations, and requests that all comments be accompanied by clear documentation.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the proposed rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear. This proposed rule will not have a significant impact on a substantial number of small entities, therefore a full Regulatory Flexibility Analysis is not necessary.

To determine the potential economic impact on small entities conducting business as part 121 operators, the FAA first estimated the number of small entities affected by this proposed rule. The FAA then estimated the compliance cost and, subsequently, the economic impact. Using the criterion from the North American Industry Classification System of the Small Business Administration (SBA), the FAA identified approximately 100 operators that qualify as small businesses, and developed a random list of 50 air carriers to further analyze.

Estimating the compliance cost and economic impact for each small entity involved several analytical steps. First, we obtained from the BACK Associates Fleet Database the fleet of aircraft operated by the small entities. Second, we estimated the purchase and installation cost of the transponder solution and method of rapid activation for the fleet of each small entity. The purchase cost of the transponder solution was estimated to be approximately $3,000 per airplane, with an additional $1,000 in parts and supplies, and $2,600 in labor. Additionally, downtime costs were estimated at approximately $5,178 per aircraft, resulting in a total per airplane cost of $11,778. This per airplane cost was then multiplied by the number of affected aircraft in the air carrier's fleet to obtain a total cost per operator.

The degree to which small entities can ''afford'' the cost of compliance is determined by the availability of financial resources. The implementation costs of this proposed rule could be financed, paid for using existing company assets, or borrowed. As a proxy for the firm's ability to afford the cost of compliance, the FAA calculated the ratio of the total cost of the rule as a percentage of annual revenue. The FAA expects that the cost of the proposed rule would exceed 2 percent of total revenue for no more than two entities. The FAA does not believe that two is a substantial number of small entities.

In the interest of fully assessing the impact of this proposed rule on small entities, the FAA explored the potential competitive impact. The FAA examined the route structures and specific markets of the three firms who would be most affected (as a percentage of revenues) by the proposed rule, Chautauqua Airlines, Pan Am, and Grand Canyon Airlines. Chautauqua Airlines operates under a codeshare agreement at major hubs as an America West, American Airlines (since the purchase of TWA), and U.S. Airways affiliate, whereas Pan Am is an independent airline operating mostly at second-tier airports. These two air carriers sometimes compete with large airlines (which would incur the same fixed and marginal cost per airplane), but many routes served could be considered local monopolies in which the affected airline is the only provider of service. As a result of operating in these ''niche'' markets, an air carrier would be able to pass some of the cost to its customers. In the more competitive air tour business, keeping costs down is critical, because affected air carriers likely would not be able to pass costs down to customers. However, Grand Canyon Airlines is a dominant player in that market and its main competitors are not other airplane tour operators, but rather helicopter tour operators, with significantly higher operating costs. Thus, as a result of this proposed rule, there is expected to be little change in competition, and little change in market share within the industry.

Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this proposed rule would not have a significant impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979, 19 U.S.C. 2531–2533, prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

In accordance with the above statute, the FAA has assessed the potential effect of this proposed rule and has determined that the objective of this proposed rule is the safety and security of the United States, and therefore not considered an unnecessary obstacle to international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), 2 U.S.C. 1531–1571, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency proposed rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a

proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), states that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals or proposed rules.

This proposed rule does not contain any Federal intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that this proposed rule will have no effect on ICAO Standards and Recommended Practices or ICAO Procedures for Air Navigation Services during normal airplane operations. However, it should be noted that, upon activation of the hijack code, the flight crew would not be able to perform the transponder actions outlined in ICAO Procedures for Air Navigation Services. These actions include modifying the Mode 3A transponder code, turning the transponder to standby or off, or inhibiting the transponder altitude reporting function. It is not expected that ATC personnel would request any of these actions during an actual hijack situation.

Regulations Affecting Interstate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in title 14 of the CFR in manner affecting interstate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to all aircraft operated under the provisions of part 121, it could, if adopted, affect interstate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently in interstate operations in Alaska.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this notice of proposed rulemaking would not have federalism implications.

Plain English

Executive Order 12866 (58 FR 51735, Oct. 4, 1993) requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical language or jargon that interferes with their clarity?
- Would the regulations be easier to understand if they were divided into more (but shorter) sections?
- Is the description in the preamble helpful in understanding the proposed regulations?

Please send your comments to the address specified in the **ADDRESSES** section.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposal has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the proposal is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 121

Air carriers, Air transportation, Air traffic control, Aircraft, Aviation safety, Federal Aviation Administration, Radio equipment, Transponder.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of Title 14, Code of Federal Regulations, as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105, Sec. 104, Pub. L. 107–71, 115 Stat. 597–647.

2. Add § 121.346 to read as follows:

§ 121.346 ATC transponder operation.

(a) After March 29, 2005, no person may operate an airplane unless that airplane has the capability to allow each flight crewmember to quickly activate the ATC transponder Mode 3A beacon code ''7500'' through a single action that includes protection from inadvertent activation.

(b) Upon activation of the ATC transponder Mode 3A beacon code, as described in paragraph (a) of this section:

(1) The ATC transponder must continue to report the airplane's altitude;

(2) There must be a visual indication to the flight crew that the activation has occurred; and

(3) A person onboard that airplane must not be able, by reasonable means, to disable the transponder or change its code during the remainder of the flight. In this case, the pilot-in-command need not comply with the requirements of § 91.217(a) of this chapter.

Issued in Washington, DC, on January 8, 2003.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. 03–685 Filed 1–13–03; 8:45 am]

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Federal Register

Tuesday,
January 14, 2003

Part V

The President

Proclamation 7637—To Modify Duty-Free Treatment Under the Generalized System of Preferences

Federal Register
Vol. 68, No. 9
Tuesday, January 14, 2003

Presidential Documents

Title 3—

The President

Proclamation 7637 of January 10, 2003

To Modify Duty-Free Treatment Under the Generalized System of Preferences

By the President of the United States of America

A Proclamation

Pursuant to section 502 of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2462), the President is authorized to designate countries as beneficiary developing countries, and to designate any beneficiary developing country as a least-developed beneficiary developing country, for purposes of the Generalized System of Preferences (GSP).

Pursuant to section 503(c)(1) of title V of the 1974 Act (19 U.S.C. 2463(c)(1)), the President may withdraw, suspend, or limit the application of duty-free treatment accorded under this title with respect to any article.

Section 503(d)(5) of the 1974 Act (19 U.S.C. 2463(d)(5)) provides that any waiver granted under section 503(d) of the 1974 Act (19 U.S.C. 2463(d)) shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

Section 506A(b)(1) of the 1974 Act (19 U.S.C. 2466a(b)(1)) authorizes the President to provide duty-free treatment for any article described in section 503(b)(1)(B) through (G) of the 1974 Act (19 U.S.C. 2463(b)(1)(B)–(G)) that is the growth, product, or manufacture of a designated beneficiary sub-Saharan African country, if, after receiving the advice of the United States International Trade Commission (USITC), the President determines that such article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries.

Pursuant to section 502 of the 1974 Act, and taking into account the factors set forth in section 502(c) (19 U.S.C. 2462(c)), I have decided to designate Afghanistan as a beneficiary developing country for purposes of the GSP.

Pursuant to section 502 of the 1974 Act, and having considered the factors set forth in sections 501 and 502(c), I have also decided to designate Afghanistan as a least-developed beneficiary developing country for purposes of the GSP.

Pursuant to section 503(c)(1) of the 1974 Act, and having considered the factors set forth in sections 501 and 502(c), I have determined to withdraw the application of duty-free treatment under the GSP accorded to a certain article from Chile.

Pursuant to section 503(d)(5), I have determined that the waiver granted under section 503(d) to Chile for a certain article is no longer warranted due to changed circumstances.

Pursuant to section 506A(b)(1) of the 1974 Act, and having received the advice of the USITC, I have determined that a certain article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries. I have decided to provide duty-free treatment to this article when imported from any beneficiary sub-Saharan African country.

Section 604 of the 1974 Act (19 U.S.C. 2483), authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of the relevant provisions of that Act, and of other acts

affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including title V and section 604 of the 1974 Act (19 U.S.C. 2461–7, 2483), do proclaim that:

(1) In order to reflect in the HTS the addition of Afghanistan as a beneficiary developing country and as a least-developed beneficiary developing country under the GSP, and the withdrawal of duty-free treatment under the GSP accorded to a certain article from Chile, general note 4 to the HTS is modified as provided in section A of the Annex to this proclamation.

(2) In order to provide duty-free treatment for a certain article when imported from a beneficiary sub-Saharan African country, the HTS is modified by amending and sub-dividing the nomenclature of an existing HTS subheading as provided in section B of the Annex to this proclamation.

(3) In order to provide that Chile should not be treated as a beneficiary developing country with respect to a certain eligible article for purposes of the GSP, the Rates of Duty 1–Special subcolumn for the HTS subheading enumerated in section C of the Annex to this proclamation is modified as provided in such section.

(4) A waiver of the application of section 503(c)(2) of the 1974 Act (19 U.S.C. 2463(c)(2)) previously granted to Chile for HTS subheading 0811.20.20 shall be terminated on the date of publication of this proclamation in the *Federal Register*

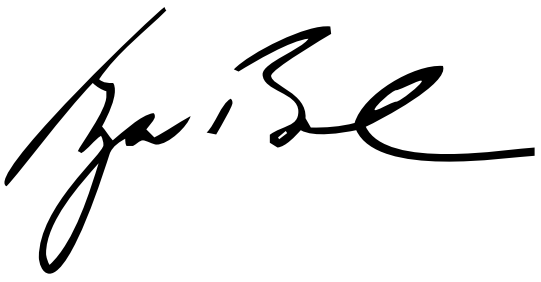
(5) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(6) (a) The modifications made by section A of the Annex to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates set forth in that section.

(b) The modifications made by section B of the Annex to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of publication of this proclamation in the *Federal Register*.

(c) The modifications made by section C of the Annex to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the thirtieth day after the date of publication of this proclamation in the *Federal Register*.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of January, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-seventh.



Billing code 3195–01–P

Annex

Modifications to the Harmonized Tariff Schedule of the United States (HTS)

Section A. Modifications to general note 4 of the HTS:

(1). Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of publication of this proclamation in the Federal Register, general note 4(a) is modified by adding in alphabetical order "Afghanistan" to the list entitled "Independent Countries".

(2). Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the thirtieth day after the date of publication of this proclamation in the Federal Register, general note 4(d) is modified by adding in numerical sequence "0811.20.20 Chile".

(3). Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the sixtieth day after the date of publication of this proclamation in the Federal Register, general note 4(b)(i) is modified by adding in alphabetical order "Afghanistan".

Section B. The HTS is modified as provided in this section, with bracketed matter included to assist in the understanding of proclaimed modifications. The following provisions supersede matter now in the HTS. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1 General", "Rates of Duty 1 Special", and "Rates of Duty 2", respectively.

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of publication of this proclamation in the Federal Register, the HTS is modified as follows:

Subheading 8111.00.45 is superseded by:

	[Manganese and articles thereof,...]			
	[Other:]			
	"Unwrought manganese:			
8111.00.47	Flake containing at least 99.5 percent by weight of manganese	14%	Free (A+,CA,D,E, IL,J,MX)	20%
				5.6% (JO)
8111.00.49	Other	14%	Free (A+,CA,E,IL, J,MX)	20%"
				5.6% (JO)

Conforming change:

For HTS subheadings 8111.00.47 and 8111.00.49, on January 1 for each of the years listed below, the rate of duty followed by the symbol "JO" in parentheses in the Rates of Duty 1-Special subcolumn is deleted and the following rates of duty are inserted for such subheadings in lieu thereof in the year specified.

2004	2005
2.8%	Free

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[FR Doc. 03–941
Filed 1–13–03; 10:38 am]
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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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H.J. Res. 1/P.L. 108–2

Making further continuing appropriations for the fiscal year 2003, and for other purposes. (Jan. 10, 2003; 117 Stat. 5)

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